

## Proceedings

1 learning about this case or to learn about the law and  
2 legal issues concerning this case.

3 Any of you taking notes, just you can leave those on  
4 your seat. And have a good lunch. See you two  
5 o'clock.

6 THE COURT OFFICER: Please rise and follow me  
7 out.

8 (Whereupon, the following takes place outside the  
9 presence of the jury.)

10 THE COURT: Counsel, by the time we get them  
11 altogether I expect to resume promptly at 2:15.

12 MR. LEMKE: Fine, Your Honor.

13 MR. HAYDEN: Yes.

14 L U N C H E O N R E C E S S

15 (Afternoon session.)

16 THE CLERK: Trial continued. Case on trial,  
17 167N-05, People of the State of New York versus Mark  
18 Orlando.

19 Are the People ready?

20 MR. HAYDEN: Ready, Your Honor.

21 THE CLERK: Defendant ready.

22 MR. LEMKE: Yes.

23 THE CLERK: Jurors are not present at this  
24 time.

25 THE COURT: Any applications before the jury

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Proceedings

1 comes in?

2 MR. LEMKE: Not from Mr. Orlando.

3 MR. HAYDEN: No, Your Honor.

4 THE COURT OFFICER: Ready for the jury?

5 THE COURT: Yes.

6 THE COURT OFFICER: Jury entering.

7 THE CLERK: Continued case on trial, 167N-05,  
8 People versus Mark Orlando.

9 Again, are the People ready?

10 MR. HAYDEN: Ready, Your Honor.

11 THE CLERK: Is the defendant ready?

12 MR. LEMKE: Defendant ready.

13 THE CLERK: Let the record reflect the  
14 presence of Mr. Orlando, the sworn jurors and the  
15 alternates.

16 THE COURT: Good afternoon, ladies and  
17 gentlemen.

18 Mr. Hayden.

19 MR. HAYDEN: Christina Rasmussen.

20 CHRISTINA RASMUSSEN, called as a witness by the People,  
21 having been first duly sworn by the Clerk of the Court,  
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HAYDEN:

25 THE CLERK: Have a seat.

Rasmussen - People - Direct

1 State your name, spell your last name for the  
2 record, and your county of residence.

3 THE WITNESS: My name is Christina Rasmussen,  
4 R-A-S-M-U-S-S-E-N. I reside in Bergen County, New  
5 Jersey.

6 THE COURT: Good afternoon.

7 THE WITNESS: Good afternoon.

8 MR. HAYDEN: Yes, Your Honor.

9 Q. Good afternoon.

10 Do you work for Cingular Wireless?

11 A. Yes, I do.

12 Q. Did that used to be called AT&T Wireless?

13 A. Yes.

14 Q. How long had you worked for Cingular Wireless?

15 A. Seven years.

16 Q. Describe your work for Cingular Wireless?

17 A. I am a manager within the fraud department and also  
18 serve as custodian of records.

19 Q. Have you become familiar with subscriber records  
20 over the course of your work?

21 A. I have.

22 Q. Have you worked with subscriber records on a  
23 regular basis?

24 A. Yes, I have.

25 Q. How long have you been working with subscriber

Rasmussen - People - Direct

1 records on a regular basis?

2 A. Five years.

3 Q. Have you become familiar with cell phone records  
4 over the course of your work?

5 A. Yes, I have.

6 Q. Have you worked with cell phone records on a  
7 regular basis?

8 A. Yes.

9 Q. How long have you been working with cell phone  
10 records with on a regular basis?

11 A. Seven years.

12 MR. HAYDEN: May I please have 54 for  
13 identification shown to the witness, Your Honor.

14 THE COURT: Yes.

15 THE COURT OFFICER: Witness has People's 54  
16 for identification.

17 Q. Please take a look at those records. Do you  
18 recognize those records?

19 A. I do.

20 Q. Are those AT&T Wireless records for a cell phone  
21 with the number 631-882-3428?

22 A. Yes, they are.

23 Q. Were those records made in the ordinary course of  
24 AT&T Wireless business?

25 A. Yes.

Rasmussen - People - Direct

1 Q. Was it the ordinary course of AT&T Wireless  
2 business to make such records?

3 A. Yes, it is.

4 Q. Were those records made at or about the time of the  
5 activity recorded?

6 A. Yes.

7 Q. Were those records made by persons under a business  
8 obligation to make them?

9 A. Yes.

10 MR. HAYDEN: The People offer those as 54 in  
11 evidence.

12 MR. LEMKE: I have a copy. No objection.

13 THE COURT OFFICER: People's 54 marked in  
14 evidence.

15 Q. Using those records in evidence who was the  
16 subscriber for cell phone (631) 882-3428 in early December  
17 2004?

18 A. Mark Orlando.

19 Q. Using the records in evidence, was (631) 882-3428  
20 used to place a call at 8:23 on the night of Friday, December  
21 3, 2004?

22 A. Yes, it was.

23 Q. Describe that call?

24 A. That was an outbound call dialed 1-516-790-4461 and  
25 was one minute and fifty-two seconds in length.

Rasmussen - People - Direct

1 Q. Using the records in evidence, was (631) 882-3428  
2 used to place a call at 8:39 that Friday night?

3 A. Yes, it was.

4 Q. Describe that call?

5 A. There was also an outbound call to 1-516-785-7000  
6 and was one minute and eight seconds in length.

7 Q. Using the records in evidence, was 631-882-3428  
8 used to place a call at 8:41 that Friday night?

9 A. Yes, it was.

10 Q. Describe that call?

11 A. This was an outbound call to 1-516-785-7000 and was  
12 forty-nine seconds in length.

13 Q. Using the records in evidence, was (631) 882-3428  
14 used to place a call at 9:14 that Friday night?

15 A. Yes.

16 Q. Describe that call?

17 A. This was an outbound call to 1-516-822-2645 and was  
18 two minutes and fourteen seconds in length.

19 Q. Using the records in evidence, was (631) 882-3428  
20 used to place a call at 9:18 that Friday night?

21 A. Yes, it was.

22 Q. Describe that call?

23 A. This was an outbound call to 1-516-822-2645 and was  
24 nineteen seconds in length.

25 Q. Using the records in evidence, was (631) 882-3428

Rasmussen - People - Direct

1 used to place a call at 9:19 that Friday night?

2 A. Yes, it was.

3 Q. Describe that call?

4 A. That was an outbound call to 1-516-822-2645 and was  
5 25 seconds in length.

6 Q. Using the records in evidence was (631) 882-3428  
7 used to place a call at 9:26 that Friday night?

8 A. Yes, it was.

9 Q. Describe that call?

10 A. This was also an outbound call to 516-902-1019 and  
11 was two minutes and forty-four seconds in length.

12 MR. HAYDEN: Nothing further at this time.

13 THE COURT: Thank you.

14 Mr. Lemke.

15 MR. LEMKE: No questions. Thank you.

16 THE COURT: Thank you. You may step down.

17 Thank you.

18 (Witness excused.)

19 MR. HAYDEN: Peter Vozzo.

20 PETER VOZZO, Police officer, called as a witness on behalf of  
21 the People, after having been first duly sworn, and  
22 having stated his shield number as 2031, and his command  
23 as the Fourth Precinct, Nassau County Police Department,  
24 took the witness stand and testified as follows:

25 DIRECT EXAMINATION

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Vozzo - People - Direct

1 BY MR. HAYDEN:

2 THE CLERK: Have a seat.

3 State your name, spell your last name, give your  
4 shield number and command for the record.

5 THE WITNESS: Police Officer Peter Vozzo,  
6 V-O-Z-Z-O. My shield number is 2031.

7 THE COURT: Good afternoon.

8 MR. HAYDEN: May I proceed.

9 THE COURT: Yes, Mr. Hayden.

10 Q. Good afternoon.

11 A. Good afternoon.

12 Q. How long have you been a member of the Nassau  
13 County Police Department?

14 A. Eight years.

15 Q. Are you assigned to the Fourth Precinct?

16 A. Yes, I am.

17 Q. How long have you been assigned there?

18 A. Eight years.

19 Q. Describe your duties with the Fourth Precinct?

20 A. Answer assignments on the radio and patrol.

21 Q. What areas do you patrol?

22 A. I patrol Oceanside, Innwood, Five Towns area, North  
23 Long Beach, Island Park.

24 Q. Where are those in relation to Long Beach?

25 A. They are just north of Long Beach, adjoining.



Vozzo - People - Direct

1 Q. All in the same geographical area?

2 A. Yes.

3 Q. I am directing your attention to the night of  
4 Friday, December 3, 2004.

5 Were you working then?

6 A. Yes, I was.

7 Q. Describe the weather that night?

8 A. It was cold and windy.

9 Q. How were you dressed?

10 A. In a Nassau County police uniform.

11 Q. Using a motor vehicle?

12 A. Yes, I was.

13 Q. Describe it?

14 A. A marked Nassau County police vehicle.

15 Q. Did you respond that night to the vicinity of  
16 Broadway, south of Georgia Avenue in North Long Beach?

17 A. Yes, I did.

18 Q. Describe the circumstances under which you  
19 responded there?

20 [REDACTED] I received a radio transmission over the radio

21 [REDACTED] into a car lying in the street

22 Q. Where did you get the call to respond there?

23 [REDACTED] Approx. what 8:30 p.m.

24 Q. When did you arrive?

25 [REDACTED] 8:45 p.m.

Vozzo - People - Direct

1 Q. Describe the vicinity of Broadway, south of Georgia  
2 Avenue?

3 A. Broadway is dimly lighted. It's mostly an  
4 industrial area. There's a boat marina, an abandoned  
5 nightclub, used to be called South Beach, and there's a  
6 storage facility also that was not open at the time.

7 Q. Were you the first person to arrive in that  
8 vicinity?

9 A. Yes, I was.

10 Q. Did you see a young man named Bobby Calabrese when  
11 you arrived in that vicinity?

12 A. Yes, I did.

13 Q. Where was Bobby Calabrese when you first noticed  
14 him?

15 A. The victim was lying face down in the middle of the  
16 roadway.

17 Q. Did you notice anyone in Bobby Calabrese's vicinity  
18 when you first arrived and saw him?

19 A. No, not at that time.

20 Q. Did you approach Bobby Calabrese?

21 A. Yes, I did.

22 Q. Did you see any sign of life as you were  
23 approaching Bobby Calabrese?

24 A. No, I did not.

25 Q. Describe any observations you made as you were

Vozzo - People - Direct

1 approaching Bobby Calabrese?

2 A. First observation I made when I approach the victim  
3 was there was a substantial amount of blood surrounding the  
4 victim. The victim was also lying face down with his legs,  
5 excuse me, his arms above his head.

6 Q. Was he wearing a sweat shirt?

7 A. Yes, he was.

8 Q. Describe that sweat shirt?

9 A. It was a gray sweat shirt, a hooded gray sweat  
10 shirt. I observed several large holes in the midsection of  
11 the back of the sweat shirt with a good, substantial amount  
12 of blood also on the rear of the sweat shirt.

13 Q. Was it a pullover sweat shirt?

14 A. Yes, it was a pullover.

15 Q. Where was the neck of that sweat shirt with  
16 relation to Bobby Calabrese's head, the top of his head?

17 A. The neck of the sweat shirt was pulled over the top  
18 of the victim's head.

19 Q. Where were Bobby's arms?

20 A. Bobby's arms were approximately over his head in  
21 this position. (Indicating).

22 Q. Did you notice a motor vehicle in Bobby Calabrese's  
23 immediate vicinity?

24 A. Yes, I did.

25 Q. Describe it.

Vozzo - People - Direct

1 A. It was a gray 2003 Nissan Infiniti.

2 Q. Describe any observations you made of the Infiniti  
3 as you were arriving that night?

4 A. When I first arrived at the scene, the engine was  
5 running and the headlights were also on in the vehicle.

6 Q. Did an ambulance arrive a short time after you  
7 did?

8 A. Yes, it did.

9 MR. HAYDEN: May I please have 35 shown to the  
10 witness?

11 THE COURT: Yes.

12 THE COURT OFFICER: The witness has 35 for  
13 identification.

14 Q. Do you recognize that?

15 A. Yes, I do.

16 Q. What is it?

17 A. This is the gray sweat shirt, hooded sweat shirt  
18 that Bobby Calabrese was wearing that evening.

19 MR. HAYDEN: Nothing further at this time.

20 THE COURT: Mr. Lemke.

21 CROSS EXAMINATION

22 BY MR. LEMKE:

23 Q. Officer, on December 3, 2004 you were asked to  
24 respond to a certain location in Island Park; isn't that  
25 correct?

Vozzo - People - Cross

1 A. Yes, it is.

2 Q. And, you arrived at a certain location in Island  
3 Park at what time?

4 A. 8:45 I believe.

5 Q. And, this isn't the first time you're testifying in  
6 court regarding this matter, is it?

7 A. Yes, it is.

8 Q. You didn't testify at the Grand Jury?

9 A. No.

10 Q. You didn't testify in any of the hearings?

11 A. No.

12 Q. Okay did you make any notations regarding your  
13 observations back on December 3, 2004?

14 A. Mental observations.

15 Q. Mental observations. Does that mean, you didn't  
16 make any notations at all.

17 A. Sure we do in our memo book.

18 Q. Did you?

19 A. No.

20 Q. So, on December 3, 2004, you respond to a location  
21 and you're the first police officer there; is that correct?

22 A. Yes, I am.

23 Q. You're in a marked vehicle; isn't that correct?

24 A. Yes, I am.

25 Q. Are you by yourself at that time?

## Vozzo - People - Cross

1 A. Yes, I am.

2 Q. Do you get out of the vehicle? Correct?

3 A. A ha.

4 Q. You, obviously, you observe a body laying on the  
5 roadway, correct?

6 A. Correct.

7 Q. You're familiar with this area, correct?

8 A. Correct.

9 Q. You carry a memo book with you, don't you?

10 A. Not when you get out of the car. It stays in the  
11 car.

12 Q. I am sorry. It's in the car so that you can go  
13 back and make notations of anything that is significant;  
14 isn't that correct?

15 A. It's up to your discretion what you can put in and  
16 out of your memo book. You don't have to put entries. All  
17 you have to do is you put an entry to that call in the memo  
18 book, if I that is it, any other entries you want to put in  
19 there is up to your discretion.

20 Q. You made no entry whatsoever about the time you  
21 arrived, correct?

22 A. No.

23 Q. You didn't make any entries of what you observed,  
24 correct?

25 A. Correct.

Vozzo - People - Cross

1 Q. You didn't make any entry anywhere regarding --

2 A. I didn't feel it was necessary.

3 Q. You may not have felt it was necessary, but did you  
4 or didn't you make any notation regarding Mr. Calabrese?

5 A. Not in the memo book.

6 Q. Not anywhere?

7 A. Correct.

8 Q. In fact, this is your area, correct?

9 A. Correct.

10 MR. LEMKE: I ask this he shown to the  
11 witness, People's 30 in evidence.

12 THE COURT OFFICER: The witness has 30 in  
13 evidence:

14 Q. Do you recognize that?

15 A. Yes, I do.

16 Q. And, that is the location that you responded to.  
17 You have Austin Boulevard in that picture, correct?

18 A. Yes.

19 Q. 7-Eleven. That is there, correct?

20 A. Yep.

21 Q. In fact you indicated December third it was very  
22 cold, very windy; isn't that correct?

23 A. Yes, it was.

24 Q. And when you get out of your vehicle, you went  
25 over, and the sweat shirt, was that cut in your presence?

Vozzo - People - Cross

1 A. Yes, it was, after the fact.

2 Q. I am sorry?

3 A. After the fact.

4 Q. After what fact?

5 A. That I was already previously there.

6 Q. You were there, the sweat shirt was not cut when  
7 you arrived, correct? x

8 A. No, it wasn't cut when I arrived.

9 Q. There was no T-shirt pulled up in any way,  
10 correct?

11 A. No, the T-shirt wasn't, the sweat shirt was.

12 Q. In fact, when you say pulled up, you didn't take  
13 any photographs, did you?

14 A. That is not my job to take photographs.

15 Q. Just asking a simple question?

16 A. No, it wasn't.

17 Q. You didn't take any photographs, did you?

18 A. No.

19 Q. When you had arrived there, you made sure that the  
20 area would be protected so when crime scene got there they  
21 can gather any evidence and collect any of that evidence,  
22 correct?

23 A. Correct.

24 Q. And, you observed that Mr. Calabrese was not  
25 moving; isn't that correct?



Vozzo -- People - Cross

1 A. Correct.

2 Q. And it's at that point in time that either you had  
3 called for further assistance, would that be correct?

4 A. Correct.

5 Q. And you had asked immediately for an ambulance to  
6 respond; isn't that correct also?

7 A. Correct. I requested forthwith response.

8 Q. They also had responded at some point in time,  
9 correct?

10 A. Excuse me?

11 Q. They had responded as well, correct?

12 A. Yes, the AMT ambulance arrived shortly after  
13 myself.

14 Q. You didn't make any notation of any of that?

15 A. No.

16 Q. Do you remember the names of the EMT that had  
17 arrived?

18 A. Yes, it was AMT Danny Brooks.

19 Q. In fact, when Mr. Brooks arrived he had arrived  
20 with somebody else?

21 A. There was another officer at the time, several  
22 officers, Officer Adam Moore and Officer Richard Verra,  
23 V-E-R-R-A.

24 Q. It would be correct to state that at the time you  
25 would assist or try to assist, in this case, Mr. Calabrese

Vozzo - People - Cross

1 isn't that correct?

2 A. Yes, as best I can.

3 Q. It was at that point in time you had arrived, did  
4 you make a determination whether he had, he was deceased?

5 A. At that time I did, yes.

6 Q. Okay. That he was deceased, correct?

7 A. Deceased, correct.

8 Q. And, yet, once the emergency medical people  
9 arrived, you then began to move the body of Mr. Calabrese?

10 A. No, I did not touch the body.

11 Q. Well, Mr. Brooks did obviously, correct?

12 A. Mr. Brooks did.

13 Q. You had already determined Mr. Calabrese was  
14 deceased and yet then he began to cut the sweat shirt?

15 A. Well, I didn't, the AMT did.

16 Q. I am sorry?

17 A. He has a better understanding of the victim's life  
18 than I do. I secure the screen. He arrives, and he has to  
19 do what he has to, check the vital signs further.

20 Q. Right. That would be up to him to make any  
21 determination?

22 A. Correct.

23 Q. As to whether or not Mr. Calabrese were deceased,  
24 whether any photographs should be taken, whether they should  
25 wait for crime scene and so forth, correct?

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Vozzo - People - Cross

1 A. Correct. He determines if there is still life  
2 within the victim.

3 Q. Okay. And then after cutting anything else, any  
4 movement of the body would be at that point up to Mr. Brooks,  
5 the EMT?

6 A. Correct.

7 Q. Thank you, officer.

8 A. You're welcome.

9 THE COURT: Anything further, Mr. Hayden?

10 MR. HAYDEN: No, Your Honor. Thank you.

11 THE COURT: Thank you, officer. You may step  
12 down.

13 THE WITNESS: Thank you.

14 (Witness excused.)

15 MR. HAYDEN: Daniel Brooks.

16 DANIEL BROOKS, called as a witness by the People, having been  
17 first duly sworn by the Clerk of the Court, was examined  
18 and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. HAYDEN:

21 THE CLERK: Have a seat.

22 State your name, spell your last name, give your  
23 shield number and command for the record.

24 THE WITNESS: AMT Daniel Brooks, Nassau County  
25 Police Department, Emergency ambulance Bureau, shield

Brooks - People - Direct

1 number 18.

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. How long have you been an ambulance medical  
5 technician?

6 A. I have been with the Nassau County Police  
7 Department for eleven years, and I have been in the EMS for  
8 almost twenty years.

9 Q. Describe your work as an ambulance medical  
10 technician?

11 A. To treat sick and injured when they call 911.

12 Q. On an emergency basis?

13 A. Yes.

14 Q. Describe any training you have had in the field of  
15 emergency medical care?

16 A. From 1985 to 1986 I took AMT school. From 1988 to  
17 1989 I took paramedic school. We had refreshers every three  
18 years.

19 Q. Describe any experience you have had in the field  
20 of emergency medical care?

21 A. Been with several volunteer agencies upstate, two  
22 paid accompanies, New York City EMT, three and-a-half years,  
23 and Nassau County Police for eleven years. Also with the  
24 Oceanside Fire Department for fifteen years.

25 Q. How many emergency calls have you answered?

Brooks - People - Direct

1 A. Upwards of a hundred thousand.

2 Q. How many times have you provided emergency medical  
3 care to a gunshot victim?

4 A. At least hundreds, possibly thousands.

5 Q. I direct your attention to the night of Friday,  
6 December 3, 2004.

7 Were you working that night?

8 A. Yes.

9 Q. Describe the weather?

10 A. It was cold. It was windy.

11 Q. How were you dressed?

12 A. Nassau County police uniform.

13 Q. Were you using a motor vehicle?

14 A. Yes.

15 Q. Describe it?

16 A. A marked Nassau County police ambulance.

17 Q. Did you respond that night to the vicinity of  
18 Broadway, south of Georgia Avenue, in North Long Beach?

19 A. Yes.

20 Q. Describe the circumstances under which you  
21 responded there?

22 A. CB which is communications bureau, put over an  
23 assignment for an intoxicated person, with subsequent calls  
24 for possible person been shot.

25 Q. When did you get that call?

Brooks - People - Direct

1 A. 2043 hours which is 8:43 p.m.

2 Q. What time?

3 A. 20 -- 2047 which is 8:47 p.m.

4 Q. Who was present when you arrived?

5 A. Police Officer Vozzo was at the scene and another  
6 car was down the block blocking the road.

7 Q. Is that Officer Peter Vozzo?

8 A. Yes.

9 Q. Were you the first ambulance medical technician to  
10 arrive?

11 A. Yes.

12 Q. Did you see a young man named Bobby Calabrese when  
13 you arrived in that vicinity?

14 A. Yes.

15 Q. Where was Bobby Calabrese when you first noticed  
16 him?

17 A. He was in the middle of the street.

18 Q. Did you approach him?

19 A. I did.

20 Q. Did you detect any sign of life in Bobby Calabrese?

21 A. No.

22 Q. Describe any observation you made as you were  
23 approaching Bobby Calabrese?

24 A. There was a large pool of blood, there was a  
25 running car, and he had a sweat shirt on that seem to be

Brooks - People - Direct

1 pulled up.

2 Q. Where was the neck of that sweat shirt with  
3 relation to the top of his head?

4 A. It was over the top of his head.

5 Q. Could you see his head?

6 A. No.

7 Q. Describe for the jury what you did when you reached  
8 Bobby Calabrese?

9 A. In order to determine whether there was any life  
10 left in him I reached up to the top of the hood to see if  
11 there was anything in it. There wasn't. So I could cut it  
12 without cutting anything on him. I cut the hood around the  
13 top, avoiding the bullet holes for crime scene, and pulled  
14 the two pieces apart and peered in his head.

15 Q. What did you see?

16 A. Several bullet holes, or at least what appeared to  
17 be bullet holes, and no signs of life.

18 Q. Did you cut into the sweat shirt to get to his  
19 head?

20 A. Yes.

21 Q. Did you eventually pronounce Bobby Calabrese dead?

22 A. Yes.

23 Q. What did you do before pronouncing him dead?

24 A. Checked his pulse, you know, just looked to see if  
25 there was any sign, there was any chance of resuscitating

Brooks - People - Direct

1 him.

2 Q. Was there?

3 A. There was not.

4 Q. Describe the vehicle you observed?

5 A. I am sorry.

6 Q. Describe the vehicle you saw?

7 A. It was a gray newer model Infiniti.

8 Q. Describe any observations you made of that  
9 vehicle?

10 A. It was running and the headlights were on.

11 MR. HAYDEN: May I have 35 in evidence shown  
12 to the witness. I take that back, 35 for  
13 identification.

14 THE COURT OFFICER: The witness has 35 for  
15 identification.

16 Q. Please take a look at that?

17 A. Yes.

18 Q. Do you recognize that?

19 A. Yes.

20 Q. What is that?

21 A. This is the sweat shirt that the deceased was  
22 wearing.

23 Q. Do you see a cut in that sweat shirt?

24 A. Yeah.

25 Q. In the back of the sweat shirt?



Brooks - People - Direct

1 A. A ha.

2 THE COURT: You have to say yes.

3 A. Yes,. I am sorry.

4 Q. Did you make that cut?

5 A. Yes.

6 MR. HAYDEN: Nothing further, Your Honor.

7 Thank you.

8 THE COURT: Mr. Lemke.

9 CROSS EXAMINATION

10 BY MR. LEMKE:

11 Q. Officer Brooks?

12 A. AMT.

13 Q. AMT Brooks. AMT?

14 A. Excuse me.

15 Q. AMT Brooks?

16 A. Yes, AMT.

17 Q. On December 3, 2004, you indicated you had arrived  
18 at a location on Broadway in Island Park; isn't that  
19 correct?

20 A. Yes.

21 Q. And when you had arrived, you had indicated that  
22 you were in a, basically an ambulance, correct?

23 A. Correct.

24 Q. And, you had now testified that there was an  
25 individual laying in the roadway, that being Mr. Calabrese;

Brooks - People - Cross

1 isn't that correct?

2 A. Yes.

3 MR. LEMKE: Now, I ask that People's 4 in  
4 evidence be shown to the EMT, please.

5 THE COURT: Yes.

6 THE COURT OFFICER: The witness last 4 in  
7 evidence.

8 Q. That is Mr. Calabrese; isn't that correct?

9 A. Yes.

10 Q. That is the person you saw lying on the street on  
11 Broadway?

12 A. Yes.

13 Q. In fact, he is wearing the sweat shirt at that  
14 time, correct?

15 A. Yes.

16 Q. He is also wearing a T-shirt; isn't that correct?

17 A. Yes.

18 Q. Is that the same T-shirt that is depicted in that  
19 photograph?

20 A. Yes.

21 Q. That is the same sweat shirt that is depicted in  
22 that photograph, correct?

23 A. Yes.

24 Q. The sweat shirt that this individual is wearing has  
25 a hood on it, correct?

## Brooks - People - Cross

1 A. Yes.

2 Q. And the hood was on his head, correct?

3 A. It was above his head.

4 Q. When you say above his head, when you arrived, the  
5 photograph which is in evidence, is showing the sweat shirt  
6 as being worn by this individual, correct?

7 A. Yes.

8 Q. And his arms are in front of him laying on the  
9 ground, correct?

10 A. Yes.

11 Q. Now, my question is this. Did you wind up taking  
12 these photographs?

13 A. No.

14 Q. And, yet the body is laying face down; isn't that  
15 correct?

16 A. Yes.

17 Q. And were you present when the body was turned on  
18 its back?

19 A. No.

20 Q. Okay. Were you present when they moved the body to  
21 look for anything underneath?

22 A. No.

23 Q. And then you weren't present when they turned the  
24 body back over when they took the photographs; is that  
25 correct?

Brooks - People - Cross

1 A. Right.

2 Q. Okay. So, when you arrived, you go over to  
3 determine whether or not Mr. Calabrese has any signs of life,  
4 correct?

5 A. Yes.

6 Q. And were you able to do that?

7 A. Yes.

8 Q. There were no signs of life; isn't that correct?

9 A. Yes.

10 Q. You were able to determine that right away,  
11 correct?

12 A. It took me a minute. I had to cut the sweat shirt,  
13 but, yes.

14 Q. You wanted to put your finger on his neck to  
15 determine whether there was a pulse, correct?

16 A. Correct.

17 Q. And, as you were cutting the sweat shirt you have  
18 those tools in the ambulance, correct?

19 A. Yes. We carry a scissor.

20 Q. You carry a scissor and certainly I think there's  
21 other things as well, correct?

22 A. Yes, a long list of things.

23 Q. When you get out of the ambulance you go over at  
24 some point in time, perhaps not at this moment, you make  
25 notations of what you observe, correct?

Brooks - People - Cross

1 A. Yes.

2 Q. And did you do that in this case?

3 A. Yes:

4 Q. Where did you write those observations down?

5 A. On a PCR.

6 Q. That PCR is I think a form that is provided by the,  
7 I guess, the Nassau County Police Department, correct?

8 A. It's a State Department of Health form.

9 Q. And, in that form you wrote down what time you had  
10 arrived, correct?

11 A. Yes.

12 Q. You write down also what you had observed,  
13 correct?

14 A. Yes.

15 Q. And, you recall also writing down on some other --  
16 you don't, do you, carry a memo book?

17 A. Yes.

18 Q. You also made some notations on a memo book,  
19 correct?

20 A. Yes.

21 Q. Notations that you observe what you believe to be  
22 three gunshot wounds, correct?

23 A. Correct.

24 Q. Also that the sweat shirt was pulled up, correct?

25 A. Yes.

## Brooks - People - Cross

1 Q. You never indicated that the sweat shirt was pulled  
2 up over his head, correct?

3 A. Just noted it was pulled up.

4 Q. Okay . And so, pulled up, he's got a hood on,  
5 correct?

6 A. Yes.

7 Q. Okay. But you never wrote anywhere it was pulled  
8 up over his head, correct?

9 A. Yes, just that it was pulled up.

10 Q. Just that it was pulled up, correct?

11 A. Yes.

12 Q. Okay: And, in fact, after you now cut the sweat  
13 shirt, you make some observations, correct?

14 A. A ha. Yes.

15 Q. And then -- do you put the sweat shirt back  
16 together or just leave it?

17 A. I leave it.

18 Q. Okay. So, in leaving it, in the photograph that is  
19 before you, you see the sweat shirt there?

20 A. Yes.

21 Q. Okay. You didn't put it that way, did you?

22 A. No.

23 Q. You didn't move it at all, did you?

24 A. I just cut it.

25 Q. As the person is laying on his stomach, okay, you

Brooks - People - Cross

1 go over, not to certainly move any of the potential evidence,  
2 and you cut up the back of the sweat shirt, correct?

3 A. The only thing I cut on his sweat shirt was the  
4 hood on the side.

5 Q. Well, if you take a look at the sweat shirt that is  
6 there, don't you cut from the bottom of the sweat shirt all  
7 the way?

8 A. I didn't cut from the bottom.

9 Q. Who cut that?

10 A. Well, it's hard to tell here whether it's cut from  
11 the bottom or where it's cut from. The only place I cut it  
12 was to expose his head.

13 Q. Let me ask you this.

14 MR. LEMKE: Can this be shown to this witness,  
15 please.

16 THE COURT: What exhibit is that?

17 MR. LEMKE: 5, I believe.

18 THE COURT OFFICER: I have 5.

19 THE COURT: People's 5.

20 Q. Isn't that a picture depicting that the sweat shirt  
21 is cut completely from the bottom up to basically the base of  
22 the neck, the hood?

23 A. Yes. I don't remember cutting it from the bottom.  
24 I remember cutting it from the middle up to the top.

25 Q. Then that is cut completely, isn't it?

Brooks - People - Cross

1 A. It's possible I could be mistaken.

2 Q. Well, that photograph is accurate?

3 A. Yes, it is.

4 Q. That is in evidence?

5 A. I don't remember cutting it from the bottom:

6 Q. Okay. So, what you're saying is somebody else may  
7 have cut the rest of that sweat shirt?

8 MR. HAYDEN: Objection.

9 THE COURT: Sustained.

10 Q. Did you cut that sweat shirt?

11 Well, you know what, that photograph that you're looking  
12 at, that sweat shirt is cut from the bottom?

13 A. Yes.

14 Q. In this picture it seems to be cut from the bottom,  
15 up to perhaps the base of the hood; isn't that correct?

16 A. Yes.

17 Q. And, it's your testimony to this jury that you  
18 didn't do that?

19 MR. HAYDEN: Objection. That was not the  
20 testimony.

21 THE COURT: Sustained.

22 Q. Your testimony to this jury is that what -- you cut  
23 it as it's depicted in that picture?

24 A. I don't remember cutting it from the bottom. I  
25 remember cutting it to expose his head.



Brooks - People - Cross

1 Q. Okay. My question is, did you cut that as it  
2 appears in that photograph?

3 A. I don't remember cutting it from the bottom. It's  
4 possible that I did though.

5 MR. LEMKE: Could I have what has been marked  
6 35 -- is that in evidence yet?

7 Your Honor, without objection, perhaps I can  
8 have it marked in evidence?

9 I ask it be moved into evidence.

10 THE COURT: People's 35 in evidence on  
11 consent?

12 MR. HAYDEN: Yes.

13 MR. LEMKE: Yes.

14 THE COURT OFFICER: People's 35 marked in  
15 evidence.

16 The witness has 35 in evidence.

17 Q. You identified that previously as being the sweat  
18 shirt, correct?

19 A. Yes.

20 Q. That is the sweat shirt that was cut by you,  
21 correct?

22 A. Yes.

23 MR. LEMKE: Your Honor, with the Court's  
24 permission, I don't know if he needs gloves, I ask that  
25 be removed from the bag, please.

Brooks - People - Cross

1 THE COURT: Do you need gloves?

2 THE WITNESS: Yeah, that would be appropriate.

3 MR. LEMKE: Want to take a two minute break,

4 Your Honor:

5 THE COURT: You can step down then.

6 MR. HAYDEN: May we purchase for a moment.

7 THE COURT: Yes.

8 (Whereupon, there was a bench conference held off  
9 the record.)

10 THE COURT: We will take a five minute  
11 recess. Just a couple of minutes.

12 Remember my admonitions. Don't discuss the case  
13 among yourselves or with anyone else.

14 Be back in a couple of minutes.

15 (Whereupon, there was a brief recess in the  
16 proceedings.)

17 THE COURT: Ready, Mr. Hayden?

18 MR. HAYDEN: Sure.

19 THE COURT: Bring them in.

20 THE COURT OFFICER: Jury entering.

21 THE CLERK: Let the record reflect the  
22 presence of the sworn jurors and the alternates.

23 THE COURT: Mr. Lemke, the witness has removed  
24 the sweat shirt.

25 MR. LEMKE: Thank you.

Brooks - People - Cross

1 Q. EMT Brooks, do you have before you what has been  
2 marked as People's 35 in evidence?

3 I think you testified that you recognize that; is that  
4 correct?

5 A. Yes.

6 Q. And now you recognize that as the sweat shirt that  
7 was worn by Mr. Calabrese on December 3, 2004; is that  
8 correct?

9 A. Yes.

10 Q. That was the sweat shirt that you cut; is that  
11 correct?

12 A. Yes.

13 Q. Could you hold up what is in evidence as People's  
14 35, please.

15 And, could you open it up, please, to show where the hood  
16 is, where the back is, the sleeves, front and back?

17 A. (Witness complies.)

18 Q. Now, that is a hood. Pull the hood forward a  
19 second. Thank you.

20 That is the front, correct?

21 The front is facing the jury, correct?

22 A. Correct.

23 Q. Turn that around, please?

24 A. (Witness complies.)

25 Q. Facing you, that is the back, correct?

Brooks - People - Cross

1 A. Yes.

2 Q. That back, you testified, would you say that that  
3 back is cut from the bottom all the way up to the neck,  
4 correct?

5 A. Yes.

6 Q. It's not cutting into the hood, correct?

7 A. I am sorry.

8 Q. It's not cutting from the hood and over?

9 A. It's cut all the way.

10 Q. My next question to you, did you cut that entire  
11 length?

12 A. Looking at it, the cut is consistent. So, I'd say,  
13 yeah, I did, but I don't recall specifically cutting it from  
14 the bottom.

15 Q. So, the answer is somebody else may have also cut a  
16 part of that?

17 MR. HAYDEN: Objection. That is not the  
18 testimony.

19 THE COURT: Sustained.

20 Q. As you look at that sweat shirt now, does that  
21 refresh your recollection whether you cut the whole thing?

22 A. It appears I cut it from the bottom, yes.

23 Q. That is all I needed.

24 Thank you, Your Honor.

25 THE COURT: Redirect.

Brooks - People - Cross

1 MR. HAYDEN: Thank you.

2 REDIRECT EXAMINATION

3 BY MR. HAYDEN:

4 MR. HAYDEN: May I approach, Your Honor?

5 THE COURT: Yes.

6 Q. Now, these are the holes you were talking about,  
7 AMT Brooks?

8 A. Yes.

9 Q. One, two, three, four?

10 A. Yes.

11 Q. Is that right?

12 Want you to tell these jurors where these holes were with  
13 relation to the wounds to the back of the left side of  
14 Bobby's head?

15 A. The holes were consistent with the holes in Bobby's  
16 head.

17 Q. Aligned with those holes, with those wounds?

18 A. Yes.

19 Q. Whether that is the way you found it?

20 A. Yes.

21 Q. When we are talking about the neck of the sweat  
22 shirt, are we talking about this area here, the neck?

23 A. Yes.

24 Q. And this is up over the top of Bobby's head?

25 A. Yes.

Brooks - People - Redirect

1 Q. Is that the way you found him?

2 A. Yes.

3 Q. No doubt about it?

4 A. Absolutely.

5 Q. Now, you can see here this has been significantly  
6 ripped in the front; is that right?

7 A. Yes.

8 Q. Did you do that?

9 A. No.

10 Q. Did you even see this?

11 A. No.

12 Q. Did you see Bobby while he was on his back or was  
13 it always while he was on his stomach?

14 A. He was always prone.

15 Q. You're not responsible for this significant tear in  
16 the sweat shirt; is that right?

17 A. Right.

18 Q. Did you see anyone else do it?

19 A. No.

20 Q. Did you notice this hole here in the sweat shirt?

21 A. Is that the front?

22 Q. Yes.

23 A. Yeah. No, I did not.

24 Q. Didn't notice it because you never noticed anything  
25 about the front of the sweat shirt because Bobby was on his

Brooks - People - Recross/Redirect

1 symptom; is that right?

2 A. That's correct.

3 MR. HAYDEN: Nothing further at this time.

4 RECROSS EXAMINATION

5 BY MR. LEMKE:

6 Q. It was so significant that you forgot to write it  
7 down anywhere?

8 A. Pardon.

9 MR. HAYDEN: Objection. Objection to the form  
10 of the question.

11 THE COURT: Rephrase the question.

12 Q. You never wrote that down anywhere, did you?

13 A. What down?

14 Q. Sweat shirt was pulled over his head?

15 A. No. My only job is to document he was deceased,  
16 not --

17 Q. So, your answer is no, you never wrote it down?

18 A. No, I am not crime scene.

19 REDIRECT EXAMINATION

20 BY MR. HAYDEN:

21 MR. HAYDEN: What you wrote was it was pulled  
22 up?

23 A. That's correct.

24 MR. HAYDEN: Nothing further, Your Honor.

25 THE COURT: Can you put that back.

Ianfolla - People - Direct

1 THE WITNESS: Yeah, sure.

2 THE COURT: Thank you.

3 I am going to have this witness retape it for the  
4 time being. Any objection?

5 MR. HAYDEN: None, Your Honor.

6 MR. LEMKE: None, Your Honor.

7 THE COURT: Thank you. You may step down.

8 (Witness excused.)

9 MR. HAYDEN: Robert Ianfolla.

10 ROBERT IANFOLLA, called as a witness by the People, having  
11 been first duly sworn by the Clerk of the Court, was  
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. HAYDEN:

15 THE CLERK: Have a seat.

16 State your full name.

17 THE WITNESS: Robert Ianfolla.

18 THE CLERK: Spell your last name and state  
19 your county of residence.

20 THE WITNESS: I-A-N-F-O-L-L-A, Nassau County.

21 THE COURT: That is good. Good afternoon.

22 Go ahead, Mr. Hayden.

23 Q. Good afternoon.

24 A. Good afternoon.

25 Q. How old are you?

COPY MO



Ianfolla - People - Direct

1 A. Twenty-four.

2 Q. What is your occupation?

3 A. Carpenter.

4 Q. Did you know a young man named Robert Calabrese,  
5 Jr.?

6 A. Yes, I did.

7 Q. Was he called Bobby?

8 A. Yes.

9 Q. Is Bobby Calabrese dead?

10 A. Yes, he is.

11 Q. When did he die?

12 A. December 3, 2004.

13 Q. How old was Bobby when he died?

14 A. Twenty-four.

15 Q. Describe your relationship with Bobby?

16 A. We were cousins, more like brothers, best friends,  
17 hung out all the time. Considered him a brother.

18 Q. Was Bobby a wrestler?

19 A. Yes, he was.

20 Q. When did he wrestle?

21 A. He started wrestling in sixth grade for Long Beach  
22 Middle School. Then he went to Kellenberg and wrestled there  
23 and finished his senior year at Long Beach High School.

24 Q. How good was he?

25 A. State champion in Kellenberg. Played fourth in the

Ianfolla - People - Direct

1 county for Long Beach as a senior.

2 Q. Did Bobby work for a gambling business?

3 A. Yes, he did.

4 Q. Describe Bobby's involvement at that gambling  
5 business?

6 A. He was a runner basically. Gave a number to put in  
7 the bets and would pick up the money and drop off the money,  
8 whether it was won or lost.

9 Q. When you say would give a number, you mean a  
10 telephone number?

11 A. Yes.

12 Q. Bets were called in?

13 A. Yes.

14 Q. Did you accompany Bobby when he was introduced to a  
15 man named Mark Orlando?

16 A. Yes, I did.

17 Q. Were they introduced at a place called Professional  
18 Credit Services?

19 A. Yes.

20 Q. Where is Professional Credit Services?

21 A. Route 110 in Farmingdale.

22 Q. Who introduced Bobby to Mark Orlando?

23 A. Tommy Flores.

24 Q. Describe Mark Orlando.

25 A. Heavy male, white male, about thirty, thirty

Ianfolla - People - Direct

1 something years old, 5'10".

2 Q. Do you see Mark Orlando in this courtroom today?

3 A. Yes, I do.

4 MR. LEMKE: So stipulated, Your Honor.

5 THE COURT: Let the record so reflect.

6 MR. HAYDEN: We're referring to the defendant;  
7 is that correct, Your Honor.

8 THE COURT: Yes, sir.

9 Q. Did you accompany Bobby when he paid gambling  
10 winnings to the defendant?

11 A. Yes, I did.

12 Q. Where did Bobby pay the defendant?

13 A. Right in front of the defendant's place of work,.

14 Q. Professional Credit Services?

15 A. Yes, it was.

16 Q. Out on Route 110?

17 A. Yes.

18 Q. How many times did you accompany Bobby while he was  
19 paying the defendant?

20 A. Four, maybe. Maybe five times.

21 Q. Was the defendant always in the parking lot of  
22 Professional Credit Services when you saw Bobby paying him?

23 A. Yes, he was.

24 Q. Had you ever seen a man named Herva Jeannot when  
25 Bobby was paying the defendant?

Ianfolla - People - Direct

1 A. No.

2 Q. Was the defendant always alone when Bobby paid him?

3 A. Yes, he was.

4 Q. Where did Bobby park with relation to the  
5 Professional Credit Services building?

6 A. Basically right in front of the front door. I'd  
7 say about a hundred feet, a hundred and fifty feet away at  
8 tops.

9 Q. Would you and Bobby ordinarily wait for the  
10 defendant to arrive?

11 A. Yes. Yeah. We would wait for him to come out of  
12 his work.

13 Q. Describe for the jury what was going on in the  
14 parking lot those times you saw Bobby pay the defendant?

15 A. I guess other people were getting out of work,  
16 going to their cars and leaving. There was small group of  
17 people sitting around talking.

18 Q. Did you ever see Bobby pay the defendant when there  
19 was still daylight?

20 A. Yes, I did.

21 Q. Did you ever see Bobby pay the defendant when there  
22 were no people around?

23 A. No.

24 Q. Describe how the money was packaged when you saw  
25 Bobby paying the defendant?

Ianfolla - People - Direct

1 A. Usually hundred dollar bills in a white envelope.

2 Q. Did you see Bobby get out of the car to pay the  
3 defendant?

4 A. Yes.

5 Q. Where would the payments take place?

6 A. Right outside the car in the parking lot.

7 Q. Describe any observations you made of the defendant  
8 and Bobby when you saw Bobby get out of the car and join the  
9 defendant?

10 A. They would give a hand shake, a little hug, started  
11 talking, as they exchange the money, handshake and a hug, and  
12 my cousin would get back into the car and we would leave.

13 Q. Did you ever see the defendant approach Bobby's  
14 car?

15 A. Yes, he did.

16 Q. How many times did you see the defendant approach  
17 Bobby's car?

18 A. One time.

19 Q. Describe the circumstances under which the  
20 defendant approached Bobby's car that day?

21 A. I believe we pulled up. He was already outside.  
22 So, he came over to the car rather than my cousin getting out  
23 of the his car.

24 Q. Did Bobby get out?

25 A. No.

Ianfolla - People - Direct

1 Q. What happened then?

2 A. He came over, he was like, the defendant was, wow,  
3 you never travel alone, do you. My cousin said, no, by the  
4 way, this is my cousin, Bobby, my name is also Bobby. We  
5 shook hands and they exchanged the money and we left.

6 Q. That was the one time you met the defendant?

7 A. Yes.

8 Q. Only time you ever spoke with him?

9 A. Yes.

10 Q. Had you ever heard of Herva Jeannot before Bobby  
11 died?

12 A. No.

13 Q. I am directing your attention to the night Bobby  
14 died.

15 Did Bobby talk to you about his intention that night?

16 A. Yes, he did.

17 Q. What did Bobby tell you he intended to do that  
18 night?

19 A. He intended to go out to Island Park to meet the  
20 defendant for the rest of the money he had lost, to pick up  
21 the money.

22 Q. Did he refer to the defendant as Mark?

23 A. Yes, he did.

24 Q. What was the approximate time Bobby left for his  
25 meeting with the defendant?

Ianfolla - People - Direct

1 A. It was after eight o'clock.

2 Q. Was Bobby wearing a sweat shirt when you last saw  
3 him that Friday night?

4 A. Yes.

5 Q. Describe that sweat shirt?

6 A. Light gray hooded sweat shirt with a black Mermaid  
7 printed on the back and an Unsound logo on the left chest.

8 Q. Describe the condition of that sweat shirt when you  
9 last saw Bobby that night?

10 A. It was a new sweat shirt.

11 Q. Was the sweat shirt torn in any way?

12 A. No.

13 Q. Was it in good condition?

14 A. Yes, it was.

15 Q. Did you eat with Bobby that night?

16 A. Yes, I did.

17 Q. What did he have?

18 A. He had a cheeseburger and French fries.

19 Q. He had dinner with you?

20 A. Actually he ate before me, I got to his house, and  
21 I was eating when he left.

22 Q. Describe Bobby's physical condition just before he  
23 died?

24 A. Very good shape. He was in the gym all the time.  
25 I guess he still kept his shape from wrestling so he was in

Ianfolla - People - Direct

1 good condition.

2 MR. HAYDEN: May I please have this photograph  
3 shown to the witness?

4 THE COURT: What number is that.

5 MR. HAYDEN: That is 25, Your Honor.

6 Q. Do you recognize that photograph?

7 A. Yes, I do.

8 Q. Is that photograph a fair and accurate  
9 representation of Bobby Calabrese's build as it was just  
10 before he died?

11 A. Yes.

12 Q. Was Bobby Calabrese strong?

13 A. Yes, he was.

14 Q. How do you know?

15 A. I watched him wrestle for years, five, six, seven  
16 years, and I also played many other sports with him. I have  
17 wrestled with him myself. I seen him wrestle much bigger  
18 people. I know he's a very strong kid.

19 Q. Was he fast?

20 A. Yes, he was.

21 Q. How do you know?

22 A. Watching him wrestle and playing baseball,  
23 football, basketball, all the other sports with him.

24 MR. HAYDEN: Nothing further at this time,  
25 Your Honor.



Ianfolla - People - Direct

1 MR. LEMKE: May I, Your Honor?

2 THE COURT: Yes, Mr. Lemke.

3 CROSS EXAMINATION

4 BY MR. LEMKE:

5 Q. As you know my name is Mr. Lemke. I represent  
6 Mr. Orlando. You know that?

7 A. Yes.

8 Q. In fact, it's your testimony that Bobby Calabrese  
9 is like a brother to you?

10 A. Yes.

11 Q. Hung out with him all the time?

12 A. Yes.

13 Q. Over the course say of a week, how often would you  
14 hang out with him?

15 A. I would see him almost everyday after work you  
16 know.

17 Q. I am sorry.

18 A. After work I would see him almost everyday.

19 Q. So, back in December 2004, or actually even  
20 October, November, four or five times a week you'd hang out  
21 with Bobby, correct?

22 A. Yeah.

23 Q. Did Bobby work at that time?

24 A. Not at the time, no. He was unemployed.

25 Q. He was unemployed. So, but you worked, didn't you?

Ianfolla - People - Cross

1 A. Yes.

2 Q. You got off work at five o'clock back in October,  
3 November?

4 A. No, it would depend on the day. I work  
5 construction, so finish a job you go home early. If there's  
6 a lot of work you work late. All different.

7 Q. When you got off you'd go see Bobby?

8 A. Yeah, most of the times, yes.

9 Q. You told us Bobby is a runner?

10 A. Yeah.

11 Q. What is a runner?

12 A. Somebody who I guess finds a player, gives them a  
13 number to put in the bets and then collects the money from  
14 whoever is placing the bets or pays that person.

15 Q. And, how would those bets be placed?

16 A. From what I understand I assumed it was by phone.

17 Q. When you say you understood, you were with him four  
18 or five times a day?

19 A. Yes.

20 Q. He had a cell phone with him?

21 A. Yes.

22 Q. A lot of cell phone calls come in, correct?

23 A. Nothing, nothing, not over, over calling, no.

24 Q. How many would you say?

25 A. I couldn't tell you how many times he got called a

Ianfolla - People - Cross

1 day. I am sorry.

2 Q. You were with him at night, right, four or five  
3 days a week, correct?

4 A. Yeah, but I wasn't counting.

5 Q. You weren't counting.

6 Let me ask you this, more than ten calls?

7 A. I don't know. I couldn't tell you that. I don't  
8 know. I can't say yes to that.

9 Q. Could you say yes to more than twenty calls?

10 A. I can't say yes. I don't know how many times he  
11 got calls.

12 Q. He had a cell phone and, what, somebody would call  
13 him and what, place, give him numbers?

14 How did that work?

15 A. I am not really too familiar with how that works.  
16 I was just keeping him company. I know if there was a number  
17 that the person whose gambling could call they place their  
18 phone bet.

19 Q. Right. And then Bobby would go and payoff these  
20 people if they won, correct?

21 A. Yes, he would.

22 Q. And, how many people had you met that Bobby was  
23 paying off?

24 A. Not many. Couple of them were actually friends  
25 putting in small bets.

Ianfolla - People - Cross

1 Q. What type of bets?

2 A. Small bets. I don't know. Football, basketball.

3 Q. When you say small, how do you know what the bets  
4 were?

5 A. Friends of mine would say I have \$25 on the Knicks  
6 or whatever, you know.

7 Q. Then you'd place that bet with Bobby?

8 A. I didn't place any bets.

9 Q. And when Bobby would pay out, he had that money  
10 handy, didn't he?

11 A. I am not sure.

12 Q. Well, you're saying, let's go back, in October of  
13 2004 you had met Mark, didn't you?

14 A. Yes, I did.

15 Q. And how many people, other people, did you go with  
16 Mr. Calabrese to pay off or collect money from?

17 A. None.

18 Q. So, Mark was the only one?

19 A. Yes, he was.

20 Q. And, in fact, when you went with Mark or went with  
21 Bobby to meet Mark, I think the first time you said it was at  
22 his place in Farmingdale, correct?

23 A. Yes.

24 Q. Bobby drove, didn't he?

25 A. Yes.

Ianfolla - People - Cross

1 Q. In fact, when you first went there Bobby had to pay  
2 off --

3 A. Excuse me?

4 Q. Bobby had to pay him off, correct?

5 A. Yes.

6 Q. You remember how much that was the first time?

7 A. No.

8 Q. Would anything refresh how much it was?

9 A. No.

10 Q. Did Bobby ever tell you how much it was?

11 A. No. I just know the guy was, he won a lot.

12 Q. So, but you testified it was hundred dollar bills?

13 A. Yes, it was.

14 Q. How did you know he was paying in hundred dollar  
15 bills?

16 A. I don't know exact amounts. I saw the money being  
17 placed into the envelope.

18 Q. Okay. You saw the money being placed in the  
19 envelope, where, back at Bobby's house?

20 A. In the car.

21 Q. Where did Bobby get that money from?

22 A. Out of his pocket.

23 Q. He'd take it out of his pocket. Now, he's  
24 counting. How much was being counted?

25 A. I didn't keep track. I was just there for

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1 company.

2 Q. Okay. Let's go to the first time you met Mark. Do  
3 you remember what month that was?

4 A. No, it was in October.

5 Q. So, October is the first time you meet Mark when  
6 you go to Farmingdale, right?

7 That is because Bobby's paying Mark money, isn't he?

8 A. Yes, he is.

9 Q. And, you don't know how much that was, do you?

10 A. No.

11 Q. Could have been \$1,800, could have been \$2,500.

12 You don't know, correct?

13 A. No.

14 Q. And yet the betting still continues, and the next  
15 time you see Mark is about a week later, right?

16 A. Yes, it is.

17 Q. And Bobby's paying him again, isn't he?

18 A. Yes, he is.

19 Q. He is counting out money again, correct?

20 A. Yes.

21 Q. Hundred dollar bills, correct?

22 A. Yes.

23 Q. How much that time? Maybe \$4,000?

24 A. I don't know.

25 Q. Didn't Bobby ever tell you anything about Mark and

Ianfolla - People - Cross

1 his gambling?

2 A. That he was a good gambler.

3 Q. Won a lot of money from him, right?

4 A. Yes.

5 Q. Second week you go to meet Mark, it's again money,  
6 hundred dollar bills, put into an envelope, correct?

7 A. No. Only saw that once.

8 Q. Other time was cash?

9 A. No, it was always in an envelope but I only saw  
10 money being put in the envelope once.

11 Q. Second time you went, the money was already in the  
12 envelope?

13 A. No, the first time I went was when I got  
14 introduced. The second time I went he got paid.

15 Q. First time he was introduced -- you know Tommy  
16 Flores?

17 A. Yes.

18 Q. You know Barbara?

19 A. I know her a little bit.

20 Q. Diamant.

21 Q. Barbara is Tommy's girlfriend?

22 A. I know that, yes.

23 Q. Tommy and Barbara both work with Mark, correct?

24 A. Yes.

25 Q. And Tommy introduces Mark to Calabrese, correct?

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1 A. Yes.

2 Q. Tommy's also a friend of yours and Bobby, correct?

3 A. Yes.

4 Q. Tommy introduces Mark because Mark is a better. He  
5 likes to bet, correct?

6 A. Yes.

7 Q. And Calabrese is a runner. He takes bets?

8 A. Yes.

9 Q. So, the first time you go up to meet Tommy  
10 Calabrese it's -- Bobby Calabrese it was in maybe October  
11 2004?

12 A. First time to meet who.

13 Q. Mark. I am sorry.

14 A. Was in October, yes.

15 Q. You go up, Tommy introduces Mark to Bobby, they  
16 walk off alone a little bit, don't they?

17 A. Yes, the walk right to behind the car.

18 Q. Right there talking a little bit, develop a  
19 relationship, Mark is going to establish an account and place  
20 bets through Calabrese, correct?

21 A. Yes.

22 Q. And the next -- it's only a week goes by, all of a  
23 sudden the first week mark is a winner, isn't he?

24 A. Yes.

25 Q. So, you go up there, he is paid by Calabrese in



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1 hundred dollar bills. You don't know how much, it was a  
2 pretty thick envelope, wasn't it?

3 A. I couldn't tell you that.

4 Q. It's paid to my client up there, correct?

5 A. Yes.

6 Q. And that next week now goes by which might be what,  
7 the second week of October?

8 A. Not -- third week.

9 Q. Maybe --

10 A. Maybe the third or last week.

11 Q. Now we're in the third or fourth week and again you  
12 went with Bobby almost every week, correct?

13 A. Yes, I did.

14 Q. Next time was again he's winning again, Bobby goes  
15 up to pay him again, correct?

16 A. Yes.

17 Q. You don't know if it's \$2,000, \$5,000 at that  
18 point? You don't know?

19 A. No.

20 Q. But Tommy, I should say Bobby keeps records,  
21 doesn't he?

22 A. I don't know.

23 Q. You then have payment made to my client, right,  
24 occurs up in Farmingdale, correct?

25 A. Yes.

Ianfolla - People - Cross

1 Q. Because he won. You're the loser, you go to his  
2 place to pay because he won, correct?

3 MR. HAYDEN: Objection.

4 THE COURT: Sustained.

5 Q. Well, you know what the conversation was between  
6 Bobby and Mark, do you?

7 A. When? What conversation?

8 Q. When he goes to pay Mark?

9 A. No.

10 Q. No. Okay. In fact, every time that you went up  
11 there was for Bobby to pay Mark, correct?

12 A. Yes.

13 Q. You never went with him up there for Mark to pay  
14 Bobby, correct?

15 A. No.

16 Q. Okay. So, the second week that Mark wins you go  
17 back up to his place to pay Mark or I should say Bobby pays  
18 him, correct?

19 A. Yes.

20 Q. We go into the third week, which may be the last,  
21 of October, and Bobby's up there again, correct?

22 MR. HAYDEN: Objection. Last week of  
23 October? Where did that come from?

24 THE COURT: Overruled.

25 MR. LEMKE: Thank you, Your Honor.

Ianfolla - People - Cross

1 A. What is the question.

2 Q. Sure. You met mark with Bobby at least I think you  
3 said four to five times, correct?

4 A. I would say four, maybe five times.

5 Q. So, if we start off towards the middle of October,  
6 that would at least two weeks in October, correct?

7 A. Yes, it would be.

8 Q. And the first three weeks in November, correct?

9 A. Yes.

10 Q. Because then Mark loses some money, going, right  
11 after Thanksgiving; isn't that correct?

12 A. I believe so, yes.

13 Q. So, let's go week by week.

14 So, you got that into the maybe the third week now, Mark  
15 wins again, doesn't he?

16 A. Yes.

17 Q. There is a conversation, you don't know what that  
18 conversation is between Bobby and Mark, but Bobby comes up to  
19 pay Mark, Mark won, correct?

20 A. Yes.

21 Q. You remember how much that one was?

22 A. No, I don't.

23 Q. When you go up, usually wait in the car, sometimes  
24 Bobby would get out, sometimes Mark would come over?

25 A. No, Mark only came over one time. Bobby got out of

Ianfolla - People - Cross

1 the car all the other times.

2 Q. Maybe the other three or four times?

3 A. Yes.

4 Q. Gave themselves a hand shake?

5 A. Little hug.

6 Q. And they hug each other?

7 A. Yes.

8 Q. Money's given. Only lasts a couple of minutes  
9 tops, correct?

10 A. Yes.

11 Q. Now, let's talk about November, beginning of  
12 November. Same. Mark wins again, correct?

13 A. Yes.

14 Q. Didn't Bobby tell you he won about \$9,000?

15 A. Didn't discuss how much he won.

16 Q. Just said he was winning big?

17 A. Just knew we were going to pay, drop off money.

18 Q. Didn't Bobby talk to you how this has got to stop,  
19 I keep losing to this guy?

20 A. No.

21 Q. Where's Bobby getting the money from?

22 A. I don't know:

23 Q. Well, now, you take the second week in November,  
24 again, Mark wins again, large, correct?

25 A. Yes.

Ianfolla - People - Cross

1 Q. Again, you're going up with Bobby to pay off Mark,  
2 right?

3 A. Yes, I am.

4 Q. Third week in November, Mark wins big again,  
5 doesn't he?

6 A. What do you mean by big.

7 Q. Well, at that point I think he was up about  
8 \$38,000, if you know?

9 A. Not sure of that. I know he won.

10 Q. There are records that are kept that would signify  
11 about \$38,000. You wouldn't dispute that, would you?

12 MR. HAYDEN: Objection.

13 THE COURT: Sustained.

14 Q. If you know?

15 MR. HAYDEN: Objection.

16 THE COURT: Sustained. Said he didn't know.

17 Q. You now go, there's a four week after Thanksgiving,  
18 correct? You don't go up to see Mark, do you?

19 A. Fourth week after?

20 Q. I should, Thanksgiving I think was early?

21 A. Not too sure. I know I went there four or five  
22 times.

23 Q. Okay. Do you remember that the last time you went  
24 up there was just before Thanksgiving?

25 A. I can't recall that.

Ianfolla - People - Cross

1 Q. And then towards the end of November, Bobby wins?  
2 What I mean by that is Mark loses, correct?

3 A. Yes.

4 Q. Now, Mark has got to go pay Bobby; isn't that  
5 correct?

6 A. I don't know. Yeah, I guess he owed him the money,  
7 he had to pay it. Right.

8 Q. Sure. And now there is a conversation between  
9 Bobby and Mark, correct, if you know?

10 A. When?

11 Q. Mark loses money. He's got to pay Bobby?

12 A. Yeah.

13 Q. Bobby says, listen, now he's, come down to my area  
14 because I lost. He's got to pay me?

15 MR. HAYDEN: Objection.

16 THE COURT: Sustained.

17 MR. LEMKE: Withdrawn.

18 Q. Mark losses now for the first time. You don't go  
19 up to collect money from Mark, do you? Correct?

20 A. (No verbal response.)

21 Q. Never seen Mark pay Bobby?

22 A. No, I didn't.

23 Q. It's now the end of November. You're aware that  
24 Mark owes Bobby money; isn't that correct?

25 A. Yes.

Ianfolla - People - Cross

1 Q. Okay: And, isn't it on December third, okay, there  
2 had not been, to your knowledge, you weren't with Bobby from  
3 the last time that you had paid, when you were with Bobby to  
4 pay Mark, from when Mark was now going to pay Bobby,  
5 correct?

6 A. I wasn't with Bobby?

7 Q. That's correct?

8 A. From the time --

9 Q. Last time you were up in Farmingdale when he had to  
10 pay Mark?

11 A. Didn't see my cousin until Mark had to pay Bobby?

12 Q. Yes.

13 A. No.

14 Q. So now on December third, you have, you go over to  
15 Bobby's house, correct?

16 A. Yes, I do.

17 Q. Friday night, correct?

18 A. Yes.

19 Q. You're over there four or five times a week,  
20 correct?

21 A. Yes.

22 Q. He's like a brother to you, correct?

23 A. Yes.

24 Q. When you go over, does he open up a new package and  
25 put on a new sweat shirt?

Ianfolla - People - Cross

1 A. No, he doesn't.

2 Q. In fact, he's wearing a sweat shirt, he doesn't  
3 say, this is a new sweat shirt or anything like that, does  
4 he?

5 A. No.

6 Q. He doesn't say, does he, how do you like my new  
7 sweat shirt? Do you like it? Correct?

8 A. No.

9 Q. And, now, he finishes his dinner, you're going to  
10 have some yourself, and doesn't a phone call come in?

11 A. No.

12 Q. A phone call doesn't come in to Bobby?

13 A. When I got to the house?

14 Q. Right?

15 A. He had already finished dinner. I said I sat down  
16 to eat my dinner.

17 Q. I am sorry.

18 A. Then I sat down to eat my dinner.

19 Q. Then didn't the phone call come in?

20 A. I don't know if a phone call came in.

21 Q. Well, Bobby was leaving, wasn't he?

22 A. Yes, he was.

23 Q. Didn't Bobby tell you that I'm leaving because  
24 Mark's got to pay me? Correct?

25 A. Said I'm going to meet Mark, yes.



Ianfolla - People - Cross

1 Q. Now, from December third when he leaves the house,  
2 he leaves about, what? This is Friday. What time does Bobby  
3 leave the house that night?

4 A. Sometime after eight o'clock. I can't recall the  
5 exact time.

6 Q. What address were you at when you received that  
7 phone call?

8 A. I was at Bobby's house.

9 Q. Which is where?

10 A. 519 East Erickson Street.

11 Q. What town?

12 A. Long Beach, New York.

13 Q. Long Beach. So, all you have to do is what, come  
14 over the bridge on, what is that, Austin Boulevard, to get to  
15 Island Park?

16 A. Yeah, Long Beach Road.

17 Q. Long Beach Road?

18 A. Yes.

19 Q. How long -- withdrawn.

20 Do you know where Mr. Calabrese was killed, don't you?

21 A. Yes, I do.

22 Q. And, how long of a drive is it from that location  
23 to where Bobby left his house that night?

24 A. Five, in between five and ten minutes. Five  
25 minutes.

Ianfolla - People - Cross

1 Q. Five minutes, right.

2 A. Yes.

3 Q. In fact, all he's got to do is get in his car, come  
4 right over the bridge and he's right there, correct?

5 A. Not so simple but, yeah, go over the bridge and up  
6 the block a couple of miles.

7 Q. It's right there?

8 A. Yeah, it's there.

9 Q. There is a 7-Eleven that is right there, right?

10 A. Yes.

11 Q. And, just, finally, what time did he leave the  
12 house?

13 A. Sometime after eight o'clock. I can't recall the  
14 exact time.

15 MR. LEMKE: Okay. I don't think I have  
16 anything further.

17 THE COURT: Mr. Hayden.

18 MR. LEMKE: Hold on one second. One other  
19 question.

20 Q. When Bobby was leaving on December 3, 2004 to meet  
21 Mark, did he tell you it was because Mark owed him money?

22 A. I knew he was going to meet Mark to pick up money.

23 Q. You didn't discuss his business with him, correct?

24 A. No, I didn't.

25 Q. How do you know that Mark finally lost?

Ianfolla - People - Cross

1 MR. HAYDEN: Objection.

2 THE COURT: Overruled.

3 You can answer.

4 A. How do I know he finally lost? Because he won,  
5 won, won, then he lost. He said I'm going to meet mark to  
6 pick up the money. He wasn't going to gamble anymore.

7 Q. Thank you.

8 THE COURT: Anything further, Mr. Hayden.

9 MR. HAYDEN: Briefly.

10 REDIRECT EXAMINATION

11 BY MR. HAYDEN:

12 Q. Do you know the exact dates when you saw Bobby  
13 paying the defendant?

14 A. No, I don't.

15 Q. Do you know the exact times when you saw Bobby  
16 paying the defendant up at Professional Credit Services on  
17 Route 110 in Farmingdale?

18 A. I can't give you an exact tie, no.

19 Q. Do you remember when specifically it was in  
20 November?

21 A. What do you mean?

22 Q. Dates?

23 A. No. Times, no. I know it was Thursday or Friday  
24 of each week, but I can't say whether it was Thursday or  
25 Friday for the specific week.

Ianfolla - People - Redirect

1 MR. HAYDEN: Nothing further, Your Honor.

2 THE COURT: Anything further?

3 MR. LEMKE: Not at all.

4 THE COURT: Thank you, sir. You may step  
5 down.

6 THE WITNESS: Have a good day.

7 THE COURT: Take care.

8 (Witness excused.)

9 MR. HAYDEN: Tommy Flores.

10 TOMMY FLORES, called as a witness by the People, having been  
11 first duly sworn by the Clerk of the Court, was examined  
12 and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. HAYDEN:

15 THE CLERK: Have a seat. State your name,  
16 spell your last name, give your county of residence.

17 THE WITNESS: Tommy Flores, F-L-O-R-E-S.

18 THE CLERK: County.

19 THE WITNESS: County of Suffolk.

20 THE COURT: Thank good. Mr. Hayden.

21 MR. HAYDEN: Yes, Your Honor.

22 Q. Good afternoon.

23 A. Good afternoon.

24 Q. How old are you?

25 A. Twenty-five.

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Flores - People - Direct

1 Q. Where do you work?

2 A. Professional Credit Services.

3 Q. Where is Professional Credit Services?

4 A. It's located in Farmingdale, Suffolk County, Long  
5 Island, New York.

6 Q. Describe Professional Credit Services?

7 A. It's a collection environment. It's divided into  
8 two sides, legal side and regular collection side. Our  
9 company has about three hundred and twenty employees all  
10 together.

11 Q. Describe the building where Professional Credit  
12 Services is located?

13 A. It's a cooperate building for the most part. It's  
14 one level all around. It's a big white building, huge  
15 parking lot. Share the parking lot with the movie theatre  
16 across the street.

17 Q. Describe the work you do for Professional Credit  
18 Services?

19 A. I represent Chase Manhattan Bank. I work on all  
20 the portfolios of delinquent credit card accounts, early  
21 nineties up to the current date.

22 Q. Have you been convicted of driving while impaired?

23 A. Yes, I have.

24 Q. When was that?

25 A. About three years ago.

Flores - People - Direct

1 Q. Have you been convicted also of driving while  
2 intoxicated?

3 A. Yes, I have.

4 Q. When was that?

5 A. Last year. May 23, 2004.

6 Q. Do you know a man named Mark Orlando?

7 A. Yes, I do.

8 Q. How do you know Mark Orlando?

9 A. Mark worked at Professional Credit Services. He  
10 was there before I started.

11 Q. Describe him?

12 A. Heavy set guy, Italian, Caucasian, about four  
13 hundred pounds.

14 Q. Do you see Mark Orlando in this courtroom today?

15 A. Yes.

16 Q. Please point him out and describe to the jury what  
17 he is wearing today?

18 MR. LEMKE: So stipulated, Your Honor.

19 THE COURT: Let the record reflect the witness  
20 has identified the defendant.

21 Q. Describe the work the defendant did for  
22 Professional Credit Services?

23 A. The defendant worked on a Sprint portfolio,  
24 collected on delinquent cell phone accounts.

25 Q. He would make calls?

Flores - People - Direct

1 A. Yes, he would.

2 Q. To people in debt?

3 A. Yes, he would.

4 Q. Describe your relationship with the defendant as it  
5 was in early December of 2004?

6 A. Mark was closer with my girlfriend before I got  
7 there and, you know, at that time, considered him a friend,  
8 someone who worked with us, you know. We'd seen each other  
9 working forty hours a week, with someone we went on breaks  
10 with from time to time, you know, hung out socially, spoke on  
11 the phone from time to time.

12 Q. Do you know a man named Herva Jeannot?

13 A. Yes.

14 Q. Describe Herva Jeannot?

15 A. Herva's about 5'11", six feet, maybe 160, 170  
16 pounds, Haitian, dark skin.

17 Q. How do you know Herva Jeannot?

18 A. Also worked at Professional Credit Services.

19 Q. Describe the work Herva Jeannot did for  
20 Professional Credit Services?

21 A. Herva also worked on the Sprint unit collecting old  
22 cell phone Sprint accounts.

23 Q. Describe your relationship with Herva Jeannot as it  
24 was in early December of 2004?

25 A. I was really never close with Herva. We spoke from

Flores - People - Direct

1 time to time, you know, courtesies to each other, talked  
2 about sports, you know, the job. Things like that.

3 Q. Describe any observations you made of the  
4 relationship between the defendant and Herva Jeannot in  
5 2004?

6 A. Ever since I started working there everyone knew,  
7 everyone in the company knew they were very close. You know,  
8 very good friends. Always hanging out, always chitchatting  
9 with each other. Hung out at work, on breaks, outside of  
10 work as well.

11 Q. How often would you see the defendant and Herva  
12 Jeannot together?

13 A. Quite a bit. Herva didn't have a car for quite  
14 sometime and Mark used to pick him up from work and pick him  
15 up from his house, drive him to work, or take him home at  
16 times as well.

17 Q. Where would you see the defendant and Herva Jeannot  
18 together?

19 A. Mostly at work. They hung out socially outside of  
20 work. They went to clubs, bars, nudey bars together. Mark  
21 used to lend his car to Herva at times.

22 Q. Gymnasium?

23 A. At the gym as well.

24 Q. Do you know a young woman named Barbara Diamant?

25 A. Yes.



Flores - People - Direct

1 Q. Who is she?

2 A. Girlfriend.

3 Q. How do you know her?

4 A. I met her at Professional Credit Services.

5 Q. Do you know a young man named Bobby Calabrese?

6 A. Yes, I did.

7 Q. Is Bobby dead?

8 A. Yes, he is.

9 Q. When did he die?

10 A. December 3, 2004.

11 Q. How do you know Bobby?

12 A. I grew up with Bobby since seventh grade. Since  
13 the first day I started school we hit it off. You know, we  
14 grew up together. Me, him, his cousin. Middle school, high  
15 school, college. As we got older we were part, we always  
16 touched bases with each other, holidays. We went out  
17 together, birthdays, things like that.

18 Q. Was Bobby a wrestler?

19 A. Yes, he was.

20 Q. When did he wrestle?

21 A. Ever since I know Bobby he's been wrestling.  
22 Probably one of the best wrestlers I know.

23 Q. Where did he wrestle?

24 A. Wrestled for Long Beach, wrestled for Kellenberg  
25 High School.

Flores - People - Direct

1 Q. How good was he?

2 A. County, always in some type of tournament. You  
3 know, had metal everywhere, trophies.

4 Q. Was Bobby involved in a gambling business?

5 A. Yes, he was.

6 Q. Describe Bobby's involvement in that gambling  
7 business?

8 A. Bobby, basically, met up with you and either paid  
9 you if you won or collected money from you if you owed money,  
10 lost money on a gambling debt.

11 Q. Did you introduce the defendant to Bobby  
12 Calabrese?

13 A. Yes, I did.

14 Q. When did you do that?

15 A. Sometime late October 2004.

16 Q. Describe what happens when you introduced the  
17 defendant to Bobby Calabrese?

18 A. Bobby and his cousin Rob came to my house. It was  
19 nighttime. Mark was working the late shift to nine o'clock.  
20 Picked me up at my house and we drove to Professional Credit  
21 Services at the parking lot where he then met mark. They  
22 went off to the side, spoke for a little while, exchanged  
23 numbers. That was really it Bobby. Asked me about it. I  
24 said this is where he works. He's an okay guy. I know he  
25 gambles an awful lot, and Bobby decided to take him on.

Flores - People - Direct

1 Q. Had the defendant talked about gambling before you  
2 introduced him to Bobby?

3 A. Yes, he did.

4 Q. How long had the defendant been talking about  
5 gambling before you introduced him to Bobby?

6 A. Mark always was talking about gambling, you know,  
7 ever since I started working there. He would always talk  
8 about how good he was at it. It was basically his second  
9 job, you know, he was a professional gambler.

10 Q. Did you see the defendant spend money during the  
11 months you knew him?

12 A. Mark was always spending money, you know, always  
13 throwing money around, talking about money, flashing money.  
14 Telling how much he spent on doing something at his house,  
15 how much he paid on his watch, you know, always talking about  
16 some type of money.

17 Q. Where did you see the defendant spend money?

18 A. November 2004 was my girlfriend's birthday. It was  
19 his idea to take out a bus and go out to the city, go  
20 clubbing in the city. Mark paid for most of the bus and the  
21 liquor as well. I shared the liquor with him. For the most  
22 part he did put up most of the money for it.

23 He would take my girlfriend out before me and her started  
24 talking. He would always take her out to eat a lot and pay  
25 for her and her friends. Things like that.

Flores - People - Direct

1 Q. Did the defendant talk to you about placing bets  
2 through Bobby?

3 A. Yes, all the time. Mark very arrogant, you know.  
4 He would always tell people about his bets. He was always  
5 winning. The only time I ever remember Mark being down was  
6 the first time he started betting with Bobby, probably the  
7 first week. Ever since then he's always telling me or people  
8 at the job, you know, how much money he made on last night's  
9 game, or prior, things like that.

10 Q. Referring to his betting with Bobby?

11 A. Absolutely.

12 Q. Did the defendant ever show you his winnings?

13 A. Yeah. Mark always carried an awful lot of money  
14 with him. Even before Bobby, you know, he used to carry  
15 money with him. He had money after he started dealing with  
16 Bobby. He keeps money in his trunk, in his pocket, at his  
17 desk, you know. Used to always flash it around.

18 Q. Did the defendant tell you what he did with his  
19 winnings after he started betting with Bobby?

20 A. Yeah. At one point Mark was up. Bobby came and  
21 gave him approximately \$18,000 and, you know, mark was  
22 telling us about it, what he had done with the money, how he  
23 had paid bills, credit card bills, he had given money to  
24 family. Gave his wife some money. All types of things he  
25 was doing with the money. Doing things in his house. Things

Flores - People - Direct

1 like that.

2 Q. I direct your attention to early in the week of  
3 Monday, November 29, 2004.

4 What did the defendant say then about his gambling  
5 through Bobby Calabrese?

6 A. Mark was not himself that week. He had told me he  
7 was down some money with Bobby, nine thousand from one week  
8 and about eight thousand from another week. Added up to  
9 about \$17,000, and he was stressed out about it.

10 Q. I direct your attention to Thursday, December 2,  
11 2004.

12 Did the defendant drive you to work that day?

13 A. Yes, he did.

14 Q. Did he talk to you about his gambling with Bobby  
15 Calabrese as he was driving to work?

16 A. Yes, he did. Mark picked me up at my house on the  
17 way to work telling me how his wife had found his gambling  
18 books and he had shut down the gambling with Bobby, and he  
19 was a little upset. He had told me that he had two locked  
20 bets, \$5,000 each, and he wanted to place them and Bobby  
21 wouldn't let him, and he couldn't understand why. And I had  
22 told him, you know, how can you expect him to allow you to  
23 place these bets, you know, knowing you're not going to  
24 gamble anymore.

25 Q. Did he talk about making a comeback through those

Flores - People - Direct

1 two \$5,000 bets?

2 A. Yeah, he was. I guess that is what his intentions  
3 were.

4 Q. Is that what he said?

5 A. He was down. He wanted to place those bets in  
6 order to try to come back some of the money he had lost.

7 Q. Directing your attention to the night of Friday,  
8 December 3, 2004.

9 Did you see the defendant that night?

10 A. Yes, I did. We had worked, we left work and met  
11 him at the gym. Seen Mark at the gym that night with Herva.

12 Q. What gym was that?

13 A. It's called LA Fitness off Route 110. It's a big  
14 classy gym. It has indoor basketball courts, racquetball,  
15 Jacuzzi, pool.

16 Q. Where is LA Fitness with respect to Professional  
17 Credit Services?

18 A. Anywhere from two to five minutes away. It's off,  
19 also off 110, little north, on the borderline of Suffolk  
20 County.

21 Q. Where is LA Fitness with relation to North Long  
22 Beach?

23 A. Nowhere near it. Have to take two different  
24 parkways in order to get there.

25 Q. Describe what you saw while you were observing the

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1 defendant and Herva Jeannot together at LA Fitness that  
2 Friday night?

3 A. Mark was picking up an awful lot of weight that  
4 night. We had joined the gym. He had a baby coming on the  
5 way and he was trying to lose some weight, you know, stay  
6 around for the baby and, you know, he was always complaining  
7 about the weight. The weight he was picking up at the gym  
8 that night when he was working out was extra heavy, you know,  
9 on his back, on his legs. He was picking up an awful lot of  
10 weight that night.

11 Q. What happened then?

12 A. Throughout the workout Herva, the whole time, you  
13 know, kept rushing him along telling him that he had to go  
14 somewhere, he had to go somewhere, you know, and so they  
15 eventually left at about anywhere from 7:15, 7:30.

16 Q. How did the defendant respond when Herva kept  
17 telling him they had to go somewhere?

18 A. You know, he was, in a minute, you know, he was  
19 going along with it.

20 Q. Did you see the defendant and Herva Jeannot leave  
21 together?

22 A. Yes, I did.

23 Q. What was the approximate time you saw the defendant  
24 and Herva leaving together?

25 A. Me and my girlfriend friend left the gym about

Flores - People - Direct

1 quarter to eight. They must have left 7:15, 7:30:

2 Q. I am directing your attention to 9:26 that Friday  
3 night.

4 Did you receive a telephone call then?

5 A. Yes, I did.

6 Q. Who called you?

7 A. Mark Orlando.

8 Q. Where were you when the defendant called?

9 A. I was at home.

10 Q. How did the defendant reach you?

11 A. Called my cell phone number, 516-902-1019.

12 Q. Did you recognize the defendant's voice?

13 A. Yes, I did.

14 Q. Had you spoken to him many times over the telephone  
15 before that call?

16 A. Yes, I have.

17 Q. Describe any conversation when the defendant  
18 reached you at your cell phone, 902-1019?

19 A. Mark had called and, you know, he was telling me  
20 that he was coming back from a dealership, that he was  
21 supposed to pick up some money, and that the guy who was  
22 supposed to leave him a check wasn't there. And it wasn't  
23 all there, he was frantic, he was frazzled, he's very quick  
24 with his words, always handles a conversation very well. He  
25 just wasn't all there.



Flores - People - Direct

1 I had asked him what he was doing the following day, and  
2 he had told me it was his wife's birthday. I asked him if he  
3 was doing anything special for her, he said no. And I even  
4 told him, you know, about a restaurant that me and my  
5 girlfriend went to before. I told him the name of it. I had  
6 asked him if he had been there, and he was not even  
7 acknowledging the question. He wasn't there. He was like,  
8 yeah, no, no, yeah, yeah, I was there. Yeah, yeah, I have  
9 been there. And then my girlfriend had spoke to him  
10 briefly.

11 Q. Did the defendant say anything about Herva Jeannot  
12 during that call?

13 A. No.

14 Q. Did you expect the defendant call then?

15 A. No, I did not. I knew about the incident with the  
16 dealership, you know. I had heard Mark on the phone that  
17 week speaking to the guy at the dealership but I had no  
18 interest in it at the time.

19 Q. Did you have any interest at all in the defendant's  
20 efforts to he retrieve that refund check?

21 A. No, I did not.

22 Q. I am directing your attention to the morning of  
23 Saturday, December 4, 2004.

24 Did you learn then about Bobby Calabrese's death?

25 A. Yes, I did.

Flores - People - Direct

1 Q. How did you learn that?

2 A. I was at work that morning. My brother had called  
3 me up and told me that Bobby was shot and killed.

4 Q. Describe any observations you had made of the  
5 defendant and Herva Jeannot during the days before Bobby  
6 died?

7 A. During the eight hour shift, you get two ten minute  
8 breaks in the morning. We always walked towards the  
9 cafeteria in a group, you know. Everyone would be talking.  
10 And that week, you know, they kept to themselves. They  
11 walked with us and kind of went off to themselves talking  
12 while we went inside the cafeteria. They were very distant.

13 Q. Did they involve you in any conversations?

14 A. No.

15 Q. Did they involve Barbara?

16 A. No, they did not.

17 Q. Did you see them involve anyone else?

18 A. No.

19 Q. Did you telephone the defendant that Saturday  
20 morning after you learned about Bobby's death?

21 A. Yes, I did. I was at work when my brother had  
22 called me, and once I got off the phone with him I had called  
23 Mark. Mark had to meet with Bobby sometime that week. He  
24 would always tell me when he was meeting up with Bobby. He  
25 was always happy, he was always picking up money. Never once

Flores - People - Direct

1 during that whole week, never mentioned he was going to meet  
2 up with Bobby that week.

3 I asked him if he had seen Bobby the prior night. He  
4 said yes. I told him that Bobby was killed. And, you know,  
5 he was shocked. He said he really liked Bobby. He couldn't  
6 believe what happened. And, he was, you know, wanted to know  
7 what to do. He had told us tell Bobby's family, to give them  
8 his number and tell them to call him. He wanted to  
9 cooperate. He wanted to make things right.

10 Q. How did you reach the defendant when you called him  
11 then?

12 A. I called him from work.

13 Q. How did you reach him?

14 A. On his cell phone.

15 Q. Did you call him again that Saturday?

16 A. I spoke to him a few times and I couldn't really  
17 speak because I was at work. When I went home that morning,  
18 prior to calling Mark again, I had spoken to my brother and  
19 told him How mark had met up with him that night. My brother  
20 just told us to question him, you know, put him on the spot,  
21 ask him whatever you can. See if you could get as much  
22 information as possible.

23 So when, I he went home that afternoon, I called Mark  
24 again and asked him a couple of questions about the  
25 incident. I had asked him where they met. Mark had said

Flores - People - Direct

1 they met in Island Park by Puma Auto Body Shop, he said by  
2 the old restaurant. His wife was in the background and he  
3 asked her what restaurant it was. She was the old McCade's.  
4 I had asked him how long had he spoke for and he told me  
5 thirty seconds. He paused and said two minutes.

6 I had told him, I had asked him, how he paid Bobby, what  
7 did he give him back, and he had told me he had given Bobby  
8 the same exact money that Bobby gave to him the prior week.  
9 Mark that week had, prior week, had made a comment, an issue  
10 about Bobby, how Bobby was paying him. It was large bills.  
11 It was twenties, tens, fives. I asked him how did you pay  
12 him, fives tens, twenties, and he said the money I got from  
13 the safe is the money I had paid him with.

14 Q. Did he tell you when they met?

15 A. Yeah. He had met about eight, 8:30 checked the  
16 cell phone. I believe it was 8:20.

17 Q. Did the defendant say he was learning of Bobby's  
18 death from you?

19 A. Yes, he was.

20 Q. Did the defendant tell you what Bobby did after the  
21 payment?

22 A. Yeah. I asked him, when I asked him what they  
23 spoke about, he said that they spoke about Atlantic City.  
24 The following week Mark was planning a big bus trip to  
25 Atlantic City. He wanted to take us, along with Bobby, with

Flores - People - Direct

1       them, to show him a token of appreciation. He had told me  
2       that Bobby even told him what he ate that night. Bobby had  
3       filet mignon that night.

4           Q. Did he tell you where Bobby was when the defendant  
5       last saw him that night?

6           A. Yeah. He said after they exchanged the money,  
7       Bobby got in his car and drove towards Oceanside. Then Mark  
8       had driven towards Long Beach. That was it.

9           Q. Driving towards Oceanside, would that have taken  
10      Bobby passed the 7-Eleven intersection of Austin Boulevard  
11      and Georgia Avenue?

12          A. I believe it would.

13          Q. Did you ever see Herva Jeannot place anything into  
14      the trunk of the defendant's car the week before Bobby died?

15          A. No, I did not.

16          Q. The day Bobby died?

17          A. No, I did not.

18                   MR. HAYDEN: Nothing further at this time,  
19      Your Honor.

20                   MR. LEMKE: May I?

21                   THE COURT: Mr. Lemke.

22      CROSS EXAMINATION

23      BY MR. LEMKE:

24          Q. Good afternoon, Mr. Flores.

25          A. Good afternoon.

Flores - People - Cross

1 Q. Am I correct to state that Mark Orlando flashed a  
2 lot of money around?

3 Isn't that correct?

4 A. Yes.

5 Q. You have known Mark for how many years?

6 A. I have been working at Professional Credit Services  
7 for about a year, nine months prior about, probably about  
8 thirteen, fourteen months.

9 Q. During that time I think you said that Mark's  
10 arrogant?

11 A. Correct.

12 Q. Always bragging about all the money he won and  
13 gambling is basically his first profession, correct?

14 A. His second profession.

15 Q. In fact there are times that Mark even showed you  
16 the money that Bobby had paid him, correct?

17 A. Correct.

18 Q. In fact, there was one time that you and Barbara  
19 were in mark's car and you were holding that money to see  
20 what it felt like to hold so much cash?

21 A. Yes.

22 Q. In fact, wasn't that right after Thanksgiving?

23 A. I know it was about a week before everything  
24 happened.

25 Q. Okay. So, a week before everything happened,

Flores - People - Cross

1 meaning, December third, was when Mr. Calabrese was killed,  
2 correct?

3 A. Correct.

4 Q. About a week before would be maybe the  
5 twenty-seventh of November of 2004, correct?

6 A. I don't know the dates specifically, but, an  
7 approximation, correct.

8 Q. And, you were in Mark's car, correct?

9 A. Yes.

10 Q. Barbara was in Mark's car?

11 A. Correct.

12 Q. Do you remember if anybody else was in his car?

13 A. Herva.

14 Q. And when -- four of you in the car, correct?

15 A. Correct.

16 Q. Mark was bragging again because Bobby just paid him  
17 about another \$10,000; isn't that correct?

18 A. Correct.

19 Q. Made about 37, \$38,000 that Mark was paid over the  
20 course of the previous four to five weeks; isn't that  
21 correct?

22 A. Correct.

23 Q. And you took the money and you passed it around and  
24 you were counting it?

25 A. Just passed it around. He allowed us to hold it.

## Flores - People - Cross

1 Q. You took, clearly you went through the hundreds and  
2 fifties?

3 A. There were a lot of bills in there.

4 Q. Barbara held it?

5 A. Everyone held it.

6 Q. This is a week before Mr. Calabrese was shot and  
7 killed, right?

8 A. (No verbal response.)

9 Q. In fact, when is Barbara's birthday?

10 A. First of November.

11 Q. And there was a party you wanted to plan for  
12 Barbara?

13 A. Correct.

14 Q. This is only about thirty days before the death of  
15 Mr. Calabrese?

16 A. Correct.

17 Q. And, you thought it would be nice, you talked to  
18 Mark, you and Mark are good friends. You talked about  
19 things?

20 A. Yes.

21 Q. You talked about his family, correct?

22 A. Yes.

23 Q. He hoped to have a child some day?

24 A. Yes.

25 Q. They tried for many years trying to get pregnant;



Flores - People - Cross

1 is that right?

2 A. Yes.

3 Q. And, in fact, they went through high risk  
4 pregnancies, correct?

5 A. Yes.

6 Q. Mark talked to you about invitro with his wife?

7 MR. HAYDEN: Objection.

8 THE COURT: Sustained.

9 Q. You know, you're very close to Mark, you know about  
10 his family, don't you?

11 A. I know about his relationship between him and his  
12 wife.

13 Q. You knew she was pregnant?

14 A. Yes, I did.

15 Q. After trying she finally became pregnant back in  
16 December, I guess, maybe she was six and-a-half months  
17 pregnant, I believe, correct?

18 A. About.

19 Q. In fact, you had been over to Mark and Gianna's  
20 house?

21 A. Been over to the house.

22 Q. You and Barbara?

23 A. Correct.

24 Q. When you wanted to throw the party for your  
25 girlfriends, it was suggested that maybe getting a party bus

Flores - People - Cross

1 and going into Manhattan would be a good idea?

2 A. It was Mark's idea.

3 Q. It would be about forty people going in?

4 A. About.

5 Q. Mark said, listen, I'm winning, I have a lot of  
6 money, I will pay for most of it, correct?

7 A. Correct.

8 Q. You just chip in, perhaps for maybe some of the  
9 alcohol, but don't worry, I'll take care of things, correct?

10 A. Yes.

11 Q. Mark did that with everything, correct?

12 A. With everything that night.

13 Q. For lunches, when you went out for lunch?

14 A. Mark always tried to pay for my lunch and things  
15 like that but he knows that never flies with me, not the way  
16 I did things. Mark bought me lunch, I bought him lunch the  
17 next day.

18 Q. Not saying anything's wrong.

19 Mark was the gratuitous one. He was always paying, he  
20 always had money?

21 A. Always.

22 Q. So, on the week before December third, I think you  
23 told this jury that Mark was trying to be by himself that  
24 week?

25 Is that what you said?

Flores - People - Cross

1 A. The week Bobby passed away.

2 Q. Yeah, the week before.

3 A. Him and Herva were by themselves.

4 Q. Let me ask you this.

5 On December third, let's start with that Friday. That  
6 was a Friday, correct?

7 A. Correct.

8 Q. During lunch time -- you had certain hours you work  
9 within your unit at the collection agency?

10 A. Correct.

11 Q. Barbara worked with Mark?

12 A. Correct.

13 Q. And, there would be two late nights, I believe, at  
14 the collection agency, correct?

15 A. Yes.

16 Q. Until nine o'clock at night?

17 A. Yes.

18 Q. And Saturday at least once a month?

19 A. Yes.

20 Q. Required to go in and maybe work from nine to  
21 twelve?

22 A. A ha.

23 Q. And mark lived out in Suffolk, correct?

24 A. Correct.

25 Q. And, if you know he lived there with his wife,

Flores - People - Cross

1 correct?

2 A. Yes.

3 Q. They had a house there?

4 A. Yes.

5 Q. And, he would drive in -- Herva didn't have a car,  
6 correct?

7 A. Yes.

8 Q. He'd pick up Herva at times and bring him into the  
9 office, correct?

10 A. Yes.

11 Q. And, did you work the late night as Mark worked?

12 A. I work Tuesday and Thursday.

13 Q. Tuesday and Thursday, same as Mark?

14 A. Yes.

15 Q. December third, that was a Friday, correct?

16 A. A ha.

17 Q. And before --

18 THE COURT: Excuse me. You have to say yes or  
19 no?

20 A. Yes.

21 Q. You also went to the gym that night?

22 A. Yes.

23 Q. And, didn't Mark drive you home to get your stuff  
24 to go to the gym?

25 A. Yes, he did. Barbara picked me up at my house.

Flores - People - Cross

1 Q. In fact, Barbara was upset with you?

2 A. Correct, because she didn't want me to go with Mark  
3 because she was down the house.

4 Q. Barbara was going to go to the gym with one other  
5 friend?

6 A. Yes.

7 Q. That is where you went?

8 A. A ha.

9 Q. During lunch day?

10 A. Yes.

11 Q. That Friday do you remember going to lunch with  
12 Mark and you and Barbara?

13 A. I don't remember. I believe we did, but I don't  
14 remember it.

15 Q. You went to Applebees?

16 A. Yes, we did.

17 Q. The day before, Thursday, December second.  
18 Remember that day working?

19 A. A ha. Yes, I do.

20 Q. Mark was at work?

21 A. Yes, he was.

22 Q. Four of you were basically pretty good friends,  
23 Herva, yourself, Barbara, correct, and you?

24 Correct?

25 A. Correct.

Flores - People - Cross

1 Q. In fact, the day before, which is December second,  
2 remember going out to lunch with the four you have?

3 A. Yes. Wasn't the four of us.

4 Q. I'm sorry?

5 A. When we went to Applebees it was me, Mark and  
6 Barbara.

7 Q. Do you remember the day before going also to lunch  
8 with Mark?

9 A. I don't recall where we went.

10 Q. How about Fulton Street Pub?

11 A. There you go.

12 Q. Now, so, he's spending, Mark's spending all this  
13 time with you on Thursday and all this time with you on  
14 Friday; is that correct?

15 MR. HAYDEN: Objection, all this time.

16 MR. LEMKE: Withdrawn.

17 THE COURT: Sustained.

18 Q. When you get to work, you have to work, you can't  
19 just hang around?

20 A. Correct.

21 Q. As soon as you get a break you were altogether?

22 A. During the ten, course of the ten minute break,  
23 like I said, we always walked together, speak together in a  
24 group, and during that time we were not together. Mark did  
25 distance himself.

## Flores - People - Cross

1 Q. For the ten minutes he distanced himself from you  
2 but yet on that Thursday you went together to the Fulton  
3 Street Pub, on Friday you went to Applebees, and Friday,  
4 after work, he took you home, you were going to the gym  
5 together; is that correct?

6 A. Correct.

7 Q. What about the Wednesday before? How about  
8 December first. Do you remember that day?

9 Isn't that check cashing day?

10 A. Yes.

11 Q. Do you remember going with Mark, Mark drove you and  
12 Barbara to cash your checks?

13 A. Correct.

14 Q. You spent all lunch together that day. In fact,  
15 you went to the Dime Bank where Barbara cashed her check?

16 A. Correct.

17 Q. Then you went to cash your check?

18 A. Correct.

19 Q. You guys were all together that day too?

20 A. Yes.

21 Q. Didn't distance himself then, did he?

22 A. No, he did not.

23 Q. Now, prior, or in fact, during the year 2004 -- you  
24 know that Mark's certainly a gambler?

25 A. Right.

Flores - People - Cross

1 Q. I think you testified to that, right?

2 A. Yes.

3 Q. He placed bets either through other runners,  
4 correct?

5 A. Correct.

6 Q. And those runners would be responsible to take that  
7 money perhaps to someone else in the organization, correct?

8 A. I believe so.

9 Q. And, those other individuals either collected the  
10 money or paid out the money, and sometimes take what is known  
11 as a vig, if you know what that is?

12 A. No, I do not. Not familiar with the terminology.

13 Q. Well, during the year 2004, Mark would perhaps  
14 place bets either at Off Shore Betting, if he could, right?

15 You have to answer?

16 A. Yes.

17 Q. Or basically anywhere Mark could place a bet he  
18 would do that?

19 A. A ha.

20 Q. He's extremely successful?

21 A. Correct.

22 Q. And, when if you lose during a week, you would be  
23 responsible to pay that the following week; isn't that  
24 correct?

25 A. Yes.



Flores - People - Cross

1 Q. So, here Mark has been winning all this time.  
2 First time really he has have to pay back anything would be  
3 for that one week, the betting for that Monday, Tuesday  
4 perhaps Wednesday, Thursday and Friday?

5 A. Yes.

6 Q. That would be due that following Monday, Tuesday,  
7 in some cases, Thursday or Friday?

8 A. Whenever he met up with Bobby.

9 Q. Okay. Now, the \$10,000 that you held in your hand  
10 just a week before Bobby's death, that was Mark's money,  
11 wasn't it?

12 A. Yes.

13 Q. You didn't see him throwing it and buying leather  
14 jacket or throwing it on anything else, did you?

15 A. No, that week he just told us he paid a couple of  
16 bills with it. He had given money to family, along with his  
17 wife.

18 Q. In cash?

19 A. I don't know.

20 Q. In fact, he always had all this money to pay, in,  
21 fact, his house bills correct?

22 MR. HAYDEN: Objection.

23 A. I don't know about Mark's finances.

24 THE COURT: Overruled.

25 Q. If you know.

## Flores - People - Cross

1 A. (No verbal response.)

2 Q. You also know too in your relationship I think Mark  
3 -- couple more questions -- that you also associated with  
4 Mark out of the office?

5 A. Yes, it was.

6 Q. You would also go, when you're talking about going  
7 out to dinner and out to clubs, barbecues, you were with Mark  
8 and Barbara as well?

9 A. Correct.

10 Q. Herva would get rides, relied on Mark to get  
11 various rides?

12 A. Either Mark or his brother, but he would get rides  
13 everywhere.

14 Q. Herva, you weren't really friendly with Herva?

15 A. Not, just, you know, polite to each other. Didn't  
16 really hand out unless Mark was with us.

17 Q. Did Herva talk about his military service in any  
18 way?

19 A. I knew Herva was in the service. I don't know  
20 what branch he was in or anything like that.

21 Q. You knew he was in some type of assigned weaponry?  
22 If you know?

23 A. I had no knowledge of that.

24 Q. But you know he was in the service?

25 A. I knew about some type of service.

## Flores - People - Cross

1 Q. Also the gym you went to, Mark paid for that gym,  
2 didn't he?

3 A. He put it on his credit card. I gave him the money  
4 for it. Because I didn't have a credit card at the time for  
5 the first payment, for the first month.

6 Q. Mark had a credit card, you went to the gym, and  
7 Mark said, fine, put it on my credit card, no problem, pay me  
8 when you want to pay me?

9 A. Correct. Mark was trying to lose weight for the  
10 baby and, you know, I told him I'd help him try to lose  
11 weight. I didn't want to sign up for the gym yet. I needed  
12 a few more weeks to save up money to sign up for the gym, and  
13 he wanted to go to the gym to start the program, start losing  
14 weight. So, he had told me don't worry about it, put it on  
15 my credit card, give me the money for it later. He did it  
16 for the first payment at the gym.

17 Q. Because he always had money?

18 A. He never paid for it.

19 Q. You reimbursed him?

20 A. Absolutely.

21 Q. In fact I think you asked Mark to go to Tri-County  
22 to buy jewelry for Barbara?

23 A. That's correct, for Barbara's birthday.

24 MR. LEMKE: Just one moment. I don't think I  
25 have any further questions. One other question.

Flores - People - Cross

1 Q. When you were at the gym that night, I think it's  
2 clear that you were there working out. Mark was working out,  
3 and Herva was working out, correct?

4 A. Correct.

5 Q. It's your testimony that it was Herva who kept  
6 saying, Mark, let's go, let's go?

7 A. Yes.

8 Q. Mark said don't worry about it. I'm working out,  
9 right?

10 A. It wasn't like that. Mark was telling him, okay,  
11 okay, we're going. Just calm down.

12 Q. Hold on. Hold on.

13 A. Exactly.

14 Q. In fact, when you then speak to him, maybe an hour  
15 and-a-half later, you had indicated that Mark wasn't the  
16 same, was he?

17 A. No, he wasn't.

18 Q. Something was wrong with him?

19 A. Correct.

20 Q. Clearly you could identify that, you knew it was,  
21 something happened. You knew Mark wasn't himself?

22 A. Correct.

23 MR. LEMKE: Okay. Thank you.

24 THE COURT: Mr. Hayden.

25 MR. HAYDEN: Yes, Your Honor.

## Flores - People - Redirect

1 REDIRECT EXAMINATION

2 BY MR. HAYDEN.

3 Q. I want to take you back to your testimony about  
4 Mark and Herva distancing themselves during the day before  
5 Bobby died. You mention that you went to lunch with Mark on  
6 Wednesday, Thursday and Friday.

7 Tell the jury where it was that you saw the defendant and  
8 Herva Jeannot distancing themselves from you, Barbara and  
9 other employees at Professional Credit Services?

10 A. It was during the course of the ten minute break we  
11 get in the morning at about ten o'clock. There is a  
12 cafeteria in the back of the work place. We usually all take  
13 a walk from our desks into the cafeteria. And, as we were  
14 walking towards the cafeteria, Mark and Herva were talking  
15 the whole time. They kind of went off towards the out  
16 doors. That was the time that he was distancing himself from  
17 us.

18 Q. Stayed away from you?

19 A. Correct.

20 Q. And Barbara?

21 A. Yes.

22 Q. And other employees?

23 A. Yes.

24 Q. Now, you testified during cross examination that  
25 Mark was extremely successful as a gambler; is that right?

## Flores - People - Redirect

1 A. Yes.

2 Q. Where did you get that information?

3 A. Mark. Mark would say how good he was. Mark had  
4 the folder with him, notes of who was playing, where, what  
5 the spread was, what their record was. He said that was a  
6 second job, that was he was a professional gambler.

7 Q. You were asked during cross examination about the  
8 defendant's relationship with his wife.

9 Describe the defendant's relation with his wife.

10 A. Mark was having some problems with his wife. We'd  
11 go out sometimes, you know, myself, Mark, Barbara, after work  
12 and, you know, he'd drink and he wouldn't call her, he'd come  
13 home late. You know, Mark didn't care. You know. He said  
14 he was going to get his own apartment. He didn't care about  
15 the baby. That all she was just there for the baby. You  
16 know, that that is all it was. You know, basically they was  
17 just having problems.

18 Q. Ever see him with other women?

19 A. Seen mark at nudey bars, you know. Absolutely with  
20 other woman. I believe he had, you know, spoke to one of my  
21 girlfriends, but I never seen myself, no.

22 MR. HAYDEN: Nothing further, Your Honor.

23 RECROSS EXAMINATION

24 BY MR. LEMKE:

25 Q. Mark just didn't talk about winning money, he had

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1 the money. You have seen the thousands of dollars, ten  
2 thousands he said?

3 A. Correct.

4 Q. You seen him buy things, correct?

5 A. Yes.

6 Q. You seen him loan people money, correct?

7 A. Correct.

8 Q. He didn't talk a big story, he backed it up, didn't  
9 he?

10 A. With the money.

11 Q. As far as his wife, he talked to you about the baby  
12 on the way and the pressure that came with it?

13 A. Yes.

14 Q. Thank you?

15 THE COURT: Anything further?

16 MR. HAYDEN: No.

17 THE COURT: You may step down.

18 (Witness excused.)

19 THE COURT: Counsel, approach.

20 (Whereupon, there was a bench conference held off  
21 the record.)

22 THE COURT: Ladies and gentlemen in the  
23 gallery, please remain seated until the jury leaves the  
24 room.

25 Ladies and gentlemen, we're going to close for the

## Proceedings

1 day at this point. I'm asking you to come at nine  
2 o'clock and you're directed to be here at nine o'clock  
3 otherwise the Court will have to take certain measures  
4 with respect to that. Everybody understand that. So,  
5 everybody's directed to be back here at nine o'clock.

6 I'm going to give the admonition again. I wish you  
7 all a good night. You must not converse among  
8 yourselves or with anyone else upon any subject  
9 connected with the trial. You must not read or listen  
10 to any accounts or discussions of the case in the event  
11 it is reported by the newspapers or other media. You  
12 must not visit or view the premises or place where the  
13 offense charged was allegedly committed, or any other  
14 premises or place involved in the case.

15 Prior to your being discharged you must not request,  
16 accept, agree to accept or discuss with any person the  
17 receiving or accepting of any payment or benefit in  
18 consideration for supplying any information concerning  
19 the trial.

20 You must promptly report to the Court any incident  
21 within your knowledge involving an attempt by any person  
22 improperly to influence any member of the jury.

23 You shall not access the Internet or Worldwide Web  
24 by any means available to you for the purposes of either  
25 learning about the case or to learn about the law and



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1 legal issues concerning the case.

2 You will leave your books there. We will take them  
3 and we will return them to whoever's taking notes in the  
4 morning. Nine o'clock promptly.

5 The case is moving at a good pace and I want to keep  
6 it moving that way. I wish you all good a night.

7 Thank you.

8 (Whereupon, the following takes place outside the  
9 presence of the jury.)

10 THE COURT: As you know I instructed the jury  
11 to return at nine. I hope to get going by 9:15, 9:30.  
12 If counsel would both check in with my chambers in the  
13 morning, I will be in early. The trial will resume in  
14 Judge LaPera's courtroom tomorrow unless you hear  
15 differently from me. I believe that is on the third  
16 floor.

17 THE COURT OFFICER: Yes.

18 THE COURT: For the people in the gallery.

19 Counsel, have a good night.

20 (Whereupon, the trial was adjourned to June 8,  
21 2005.)

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